

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 VS.

CR. NO. 15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 2

9 Transcript of Combined Motions to Suppress
10 Proceedings before The Honorable James O. Browning,
11 United States District Judge, Las Cruces, Dona
County, New Mexico, commencing on December 12, 2017.

12 For the Government: Mr. Randy Castellano; Mr.
13 Matthew Beck

14 For the Defendants: Mr. Brock Benjamin; Ms. Cori
15 Harbour-Valdez; Mr. Patrick Burke; Mr. Robert Cooper;
16 Mr. Jeff Lahann; Mr. Orlando Mondragon; Mr. John
17 Granberg; Mr. Billy Blackburn; Mr. Scott Davidson;
18 Ms. Amy Jacks; Mr. Richard Jewkes; Ms. Amy Sirignano;
Mr. Christopher Adams; Mr. Marc Lowry; Ms. Theresa
Duncan; Ms. Carey Bhalla; Mr. William Maynard; Mr.
Ryan Villa; Ms. Justine Fox-Young; Mr. Donovan
Roberts; Ms. Lisa Torracco; Ms. Angela Arellanes; Mr.
Samuel Winder

19 For the Defendants (Via telephone): Mr. James
20 Castle; Ms. Margaret Stickland

21 For the Witness Billy Cordova: Mr. John Moon Samore
22
23
24
25

1 THE COURT: Let's go on the record. Are
2 there any changes to counsel? I see Ms. Fox-Young
3 here. Anybody have got any changes?

4 MS. HARBOUR-VALDEZ: Mr. Burke is here
5 today.

6 THE COURT: Mr. Blackburn, good morning to
7 you. Ms. Torracco, good morning to you.

8 Any other changes or additions?

9 All right. I understand today's task, at
10 least beginning, is to get through -- is it the two
11 combined motions, the two we're going to argue
12 together, Mr. Villa's and Ms. Bhalla's, is the one
13 we're going to argue this morning, the combined?

14 MR. VILLA: Yes, your Honor. And it may
15 spill into tomorrow.

16 THE COURT: Ms. Bhalla, are you going to
17 take the lead on it?

18 MS. BHALLA: Your Honor, certainly. I
19 think that, if the Court wants to hear some arguments
20 before we get started, or do you want to just go
21 straight into the hearing?

22 THE COURT: It's up to you, however you'd
23 like to present your motion.

24 MS. BHALLA: Okay, Your Honor.

25 We are going to present evidence today, I

1 think both teams, that Billy Cordova was providing
2 drugs to both Carlos Herrera and Rudy Perez at the
3 time that he made the recordings in question. We're
4 going to talk about the times of those recordings.
5 Some of the devices, and how the devices are used
6 will be relevant. We're certainly not going to be
7 asking about any trade secrets, in terms of the
8 recordings, as we discussed yesterday.

9 So I think, if the Court can give us a
10 little bit of leeway, we're going to demonstrate the
11 use of drugs, and the fact that it was coercive.
12 Certainly, the Government knew about the access to
13 drugs. Special Agent Acee testified about that -- I
14 don't know if it was last week or the week before --
15 that he knew they were bringing drugs in and out;
16 that that was a common practice; that he was aware of
17 that. We're going to introduce records to show the
18 Government's knowledge on that issue.

19 And I believe that Mr. Villa has some
20 experts. His client has some other issues that will
21 be involved. But for Mr. Herrera's purposes, the
22 crux of what we're going to be proving today and
23 tomorrow is that drugs were used in order to obtain
24 these confessions, at least that's what the
25 Government alleges is that they're confessions.

1 We talked a little bit about that as well
2 last week in terms of -- in terms of -- I'm trying to
3 think of the way to phrase it, Your Honor.

4 Basically, they were moving inmates around on
5 purpose, putting them in different housing levels on
6 purpose in an effort to extract information.

7 The Government has alleged that we have
8 confessions in this case. And we argued a little bit
9 about the context, and we talked about that with Mr.
10 Acee. But our position is that any and all
11 statements that were made to Billy Cordova should be
12 suppressed based on the evidence that we're going to
13 present that drugs were being given to the defendants
14 in this case.

15 And that's what we're going to talk about,
16 Your Honor.

17 THE COURT: All right. Thank you, Ms.
18 Bhalla.

19 Mr. Villa, Ms. Fox-Young, do you want to
20 say anything as a preliminary matter?

21 MR. VILLA: Thank you, Your Honor.

22 THE COURT: Mr. Villa.

23 MR. VILLA: For Mr. Perez' case it actually
24 starts about the day after the alleged murder of
25 Javier Molina. He was placed, along with everybody

1 else in the pod, into Level 6, temporary
2 administrative segregation, which Level 6, for all
3 intents and purposes, is solitary confinement.

4 For Mr. Perez, however, he remained there
5 for the next 23 months until the statements that are
6 at issue in this hearing. He stayed at Southern
7 until about June of 2015, and then he was transferred
8 to PNM, which is the Level 6, Level 6, if you will,
9 at that point. So if you are in Southern, and you
10 get into a little bit of trouble, they'll put you in
11 Level 6 as a punishment for 30, 60, 90 days,
12 depending on what the infraction is.

13 If you are going to PNM North, where Mr.
14 Perez goes, that is a much higher standard in place.
15 And what the Court is going to hear is that,
16 essentially, there was no justification for Mr. Perez
17 to have gone there. The United States in their
18 response claims it was due to that they were
19 handicapped cells at PNM. But what you will hear,
20 Your Honor, is that there are many, many ADA
21 compliant handicapped cells throughout the New Mexico
22 Department of Corrections. And placing somebody in
23 Level 6, with the highest restrictions that are
24 available, because they are handicapped or have a
25 disability, would violate the ADA.

1 And what you hear about Level 6 at PNM is
2 there are no contact visits. An inmate is allowed
3 two noncontact visits. Depending on which witness we
4 hear from, four to eight phone calls a month. You're
5 not entitled to shower every day. You get it every
6 couple of days. And you get to go out to recreation.
7 But what you'll find out for Mr. Perez' case -- and
8 you'll see video of the cell that Mr. Perez was in,
9 the cell Mr. Cordova was adjacent to, Mr. Perez, and
10 the recreation yard. And it's essentially a giant
11 cage with cement on the floor and not much else.

12 And Mr. Perez had to be transported from
13 the pod where his cell was to recreation, via a
14 wheelchair. A wheelchair was kept in the pod, not in
15 his cell. And he wasn't provided a walker.

16 You'll hear that towards the tail end of
17 his time in PNM he was finally being able to walk a
18 little bit on his own. But this was beyond the time
19 that Mr. Cordova was involved.

20 And so, when they took Mr. Perez to
21 recreation, they wouldn't let him take his wheelchair
22 in to the recreation cage. And all there is is
23 cement on the floor. You'll get to see some of that.
24 So rather than crawl around on the floor, Mr. Perez
25 often did not go to recreation.

1 So, at the time that he gave this
2 statement, his state of mind, due to the long-term
3 solitary confinement, was very compromised.

4 You'll also hear about his medical
5 conditions at the time. We have our expert,
6 Dr. Heather Brislen, who is going to testify and tell
7 the Court about Mr. Perez' general medical state at
8 the time.

9 You'll also hear from one of the
10 individuals that treated Mr. Perez at the time. He
11 was on a large number of medications, due to a number
12 of different health conditions. He had a seizure
13 disorder. He was on psychological medication,
14 diabetes, pain medication for his leg problems, which
15 is why he has difficulty walking. And all those
16 things were in play at the time that he gave these
17 statements.

18 In addition, Your Honor, as Ms. Bhalla
19 said, you're going to hear that the same day that
20 Billy Cordova took the statements that are arguably
21 the most inculpatory, or the Government would
22 probably suggest are the most inculpatory, Mr.
23 Cordova provided Mr. Perez Suboxone: Once in the
24 afternoon, before dinner, and then dinner, and then
25 some after dinner. And it was at that time it caused

1 Mr. Perez to be intoxicated.

2 And you'll hear from Dr. French, who will
3 tell you about Suboxone, or generically,
4 buprenorphine -- I might be pronouncing that wrong --
5 and the effects that it can cause in somebody,
6 intoxication it will have. You'll hear about how
7 high other inmates have reported they've gotten from
8 Suboxone. And it was at that time that Mr. Perez
9 made the statements that we're challenging.

10 And, Your Honor, I cite in the briefs to
11 the Tenth Circuit Gonzalez case, which I think is
12 just sort of reciting U.S. Supreme Court case law.
13 But some of the things the Court takes into account
14 in determining if a statement is involuntary or
15 coerced, in addition to threats, intoxication from
16 drugs, those sorts of things; the typical
17 governmental coercion that is often raised in these
18 cases are the individual's age, Mr. Perez' age, his
19 intelligence, his education, the length of detention,
20 any threats or coercion that are made on him, and
21 those sorts of things. So it's the totality of the
22 circumstances approach that the Court -- we're asking
23 the Court to consider.

24 And so it's not just 23 months in solitary
25 confinement, without any justification at all from

1 the New Mexico Department of Corrections, in
2 violation of their policies. It's not just Mr.
3 Perez' medical and mental state. It's not just the
4 Suboxone. It's all of those things combined, Your
5 Honor. And Arizona versus Fulminante has made it
6 very clear that even if it's not a police officer
7 doing these things, if it's a governmental informant,
8 paid informant, as Mr. Cordova was, they can coerce
9 someone. So we're not in the Colorado versus
10 Connelly territory, where there isn't governmental
11 involvement, it's just somebody on their own
12 extracting a statement. We're in the territory where
13 this is a paid governmental informant, in conjunction
14 with Agent Acee and the New Mexico Department of
15 Corrections.

16 And as the Court is well aware, this was a
17 joint investigation. As you heard last week, there
18 were individuals from STIU and the Department of
19 Corrections conducting an investigation. And they
20 all pulled the strings to get Mr. Perez to where he
21 was to make these statements.

22 THE COURT: All right. Thank you, Mr.
23 Villa.

24 Mr. Castellano, Mr. Beck, do you have any
25 opening remarks?

1 MR. BECK: I'll direct Your Honor to two
2 important cases I think the Court should look at.
3 First, is a Tenth Circuit case from 1996, Nickel
4 against Hannigan, 97 F.3d 403. The second is the
5 Court's decision from 2005, in United States against
6 Tafoya, which may be found at 399 F. Supp 2d 1227.
7 And in those cases, to find that a statement was
8 involuntary, and therefore inadmissible, due to
9 police coercion or tactics, especially in the Tenth
10 Circuit, the Tenth Circuit lays out sort of the
11 process we have to look at.

12 And the first is whether the mental
13 condition surely led to an involuntary statement.
14 The second is whether law enforcement taking the
15 statement had knowledge of this mental deficiency or
16 condition that made this statement involuntary. And
17 then, even if those two are met, the third is whether
18 the Government purposefully took advantage of this
19 known mental condition or incapacity to coerce the
20 statement.

21 And the testimony I expect the Court will
22 hear today, and likely into tomorrow, just won't meet
23 that standard. If we look at Mr. Perez' contentions
24 about being improperly placed in administrative
25 segregation or housing like that, while that may give

1 rise to a civil 1983-type claim, the Court will find
2 that that's not a basis to suppress the statement.

3 The basis is, again, this three-step
4 process for whether the Government took advantage of
5 a known mental defect. I couldn't find a case in
6 which administrative segregation or some kind of
7 prison conditions led to suppression of a statement
8 as involuntary.

9 With regard to, I think, Mr. Herrera's and
10 Mr. Perez' arguments and contention that these
11 statements were coerced via Mr. Cordova providing
12 them Suboxone within the prison system, I expect that
13 over the next two days the Court will hear from Mr.
14 Cordova whether he provided them Suboxone, and I
15 expect the answer will be no. Agent Acee, I expect,
16 will also testify as to what instructions he gave Mr.
17 Cordova as to how Mr. Cordova was placed next to
18 Herrera and Perez; that the Government did not have
19 any control over where Mr. Herrera and Mr. Perez
20 were, the conditions that they were kept --

21 THE COURT: When you say the word
22 "Government," are you talking about the United
23 States?

24 MR. BECK: The United States Government.
25 The FBI did not have any control over where Mr.

1 Herrera and Mr. Perez were housed in Corrections.
2 The FBI negotiated to place Mr. Cordova next to where
3 New Mexico government kept Mr. Herrera and Mr. Perez.

4 THE COURT: So the State made the call
5 where Mr. Perez went, and then what the United States
6 did was come in and say: Can we have the cell next
7 door?

8 MR. BECK: Precisely. That's the case for
9 both Mr. Perez and Mr. Herrera. And that's where
10 these statements came from.

11 In the Court's case, in Tafoya, the Court
12 looked at the excited state of the person giving the
13 confession, and basically said, yes, the person was
14 excited, but there is no evidence, listening to the
15 recording, listening to the testimony of the
16 officers, that the officers somehow used that excited
17 state in order to coerce a confession.

18 THE COURT: Will you remind me of the facts
19 in Tafoya?

20 MR. BECK: Not very well -- so this was a
21 motion to suppress based on an involuntary detention,
22 a prolonged detention. My understanding from
23 reviewing it briefly this morning is that the police
24 pulled over a car, suspected that there were drugs or
25 other contraband in the car, and detained the person,

1 did sort of: You're free to go, do you mind if I ask
2 you a few more questions? And then at that point
3 found it. Once the contraband was found, the
4 defendant was apparently very excited and said that
5 because he was excited and had been arrested, he
6 involuntarily provided those statements.

7 I think what the Court looked at in the
8 involuntariness of the statements was that, yes, the
9 person was excited, but looking at the statements,
10 they were voluntary, intelligent statements. He had
11 no problem answering law enforcement's questions. He
12 did so intelligently. And there wasn't evidence that
13 the police used this excitement in a nefarious way to
14 somehow coerce a confession.

15 So I think it's a very high burden to meet
16 that third prong that the Government knowingly used
17 some deficiency to coerce an involuntary statement.
18 I expect that there will not be facts at the end of
19 this hearing that will allow the Court to properly
20 conclude that burden is met in this case.

21 I think that's probably a pretty good
22 introduction, and with that --

23 THE COURT: Are y'all going to present
24 evidence first?

25 MR. BECK: We are, Your Honor. It's our

1 burden.

2 THE COURT: All right. Mr. Beck, if the
3 Government wishes to present its first witness or
4 evidence.

5 MR. BECK: We do, Your Honor. The
6 Government calls Special Agent Bryan Acee to the
7 stand.

8 THE COURT: Mr. Acee, if you'll come up.
9 Before you're seated, Ms. Standridge will swear you
10 in.

11 BRYAN ACEE,
12 after having been first duly sworn under oath,
13 was questioned and testified as follows:

14 DIRECT EXAMINATION

15 THE CLERK: Please be seated. State your
16 name for the record.

17 THE WITNESS: Good morning. My name is
18 Bryan Acee, B-R-Y-A-N, A-C-E-E.

19 THE COURT: Mr. Acee. Mr. Beck.

20 MR. VILLA: Your Honor, I apologize, I
21 don't think there is anyone in the courtroom. Can we
22 invoke the rule with the exception of experts?

23 THE COURT: Any objection to that, Mr.
24 Beck?

25 MR. BECK: No, Your Honor.

1 THE COURT: All right. So we'll invoke the
2 rule. Any witnesses in this suppression hearing will
3 be required to remain outside of the courtroom until
4 they are called to testify. They cannot discuss
5 their testimony with each other, but they may discuss
6 their testimony with the attorney.

7 Mr. Beck.

8 BY MR. BECK:

9 Q. Special Agent Acee, what was your role in
10 this investigation into the SNM that led to the
11 prosecution that we're here for today?

12 A. I'm the lead case agent for the FBI.

13 Q. In your role as the lead case agent, did
14 you come in contact with a person named Billy
15 Cordova?

16 A. I did.

17 Q. How did that happen?

18 A. In January of 2016, I was up at the
19 Metropolitan Detention Center, MDC, in Bernalillo
20 County. I was there with other agents and STG folks
21 from MDC, and we were speaking with SNM members. I
22 pulled out an SNM member who had agreed to cooperate
23 with us. The manner in which that informant was
24 brought into the office kind of compromised the
25 informant, so the STG suggested we pull out everybody

1 from the SNM pod, to make it look like it's more
2 routine questioning.

3 Q. Okay. Let's go back here. So STG, is that
4 the Security Threat Group for New Mexico Corrections
5 Department?

6 A. No, STG is the Security Threat Group for
7 the Metropolitan Detention Center.

8 Q. Okay. So this is different than STIU,
9 which we've referred to throughout these cases?

10 A. It's a different unit. Their functions are
11 the same, just a different facility.

12 Q. All right. And so the informant you first
13 pulled out was not Billy Cordova?

14 A. Correct.

15 Q. So I think you were talking about STG
16 recommended you pull out all the SNM.

17 A. Yes, to give that informant a little bit of
18 cover, I guess.

19 Q. In January of 2016, were you already
20 undergoing the investigation that led to this
21 prosecution?

22 A. Yes, we were well into it at that point.

23 Q. Okay. So what happened after STG
24 recommended you pull out all the SNM members?

25 A. Well, I asked who else they had. They

1 mentioned Billy Cordova. I didn't know him. The
2 officers that knew him said he wouldn't talk to us
3 and that he'd probably try to fight us.

4 Nevertheless, they brought him into the office.

5 Q. Is this an office at the Metro County
6 Detention facility?

7 A. It is; it's the STG office.

8 Q. And what happened when Mr. Cordova came in
9 to the STG office?

10 A. He had a big -- he was unhandcuffed. He
11 came in, had a big smile on his face, kind of sized
12 everybody up, and then sat down. And I initially
13 didn't enter the conversation. I just kind of sat
14 off to the side and watched the STG officers talk to
15 him; told him who we were. And Mr. Cordova just
16 opened up about being fatigued or tired of the SNM.

17 Q. What else did he say?

18 A. Ultimately, he said he was willing to
19 cooperate and talk, because he was unhappy with where
20 his life had gone as a result of being part of SNM.

21 Q. When you say "he was willing to cooperate,"
22 did you tell him you were investigating the SNM?

23 A. I did.

24 Q. And is that what you understood he meant by
25 "willing to cooperate"?

1 A. Yes.

2 Q. Why did you understand that?

3 A. Well, we talked about it. In fact, I
4 had -- at that time I had assigned an agent to start
5 compiling overt acts on Mr. Cordova. I intended
6 to -- he was a target. I never envisioned sitting
7 down and talking to him at that point.

8 Q. After he said he was willing to cooperate,
9 what happened?

10 A. Well, Mr. Beck, again, it caught me off
11 guard. I didn't expect to talk to him. So we were a
12 little bit behind the curve at that point. He said
13 he wanted to cooperate. I needed to understand the
14 reasons that he was at MDC, his pending charges, and
15 where he was headed. I learned that he'd already
16 been convicted and sentenced, and was due to go to
17 state prison any day. And so we formulated a plan in
18 the following days or weeks to wire him up when he
19 arrived at New Mexico Correctional Facility.

20 Q. Let me go back there. Who is "we," when
21 you say "we formulated a plan"?

22 A. The FBI and the Department of Corrections.

23 Q. And you said this plan entailed wiring up.
24 What does that mean?

25 A. Equipping him with a recording device.

1 Q. And then what happened once you formulated
2 this plan?

3 A. We had to just kind of sit back and wait
4 for the judicial and corrections systems to kind of
5 wind things up and have him be designated to a
6 facility.

7 Q. Who designated him to a facility?

8 A. As part of his sentencing, he was sentenced
9 to the New Mexico Corrections Department. And then
10 the Corrections Department did what they do with any
11 inmate. I think they initially go to Central for an
12 intake process, and then he ultimately was sent up to
13 PNM.

14 Q. Did you play a role in where he was sent
15 when he went to PNM?

16 A. I did not.

17 Q. What happened once this process played out
18 and he was designated to go the PNM?

19 A. I opened him up as a confidential human
20 source, to formalize the process. I explained --
21 once he ended up at PNM, I got with the STIU folks to
22 see who Mr. Cordova would be around, and then begin
23 formulating a plan to introduce a recording device
24 into the facility, which isn't easy to do.

25 Q. Where did you learn that Mr. Cordova would

1 be placed at PNM?

2 A. I think he was to go to the South or the
3 North, either the Level 5 or the 6.

4 Q. Okay. Did you at some point talk with STIU
5 officers about where to place Mr. Cordova at PNM?

6 A. Yes.

7 Q. And how did that come about?

8 A. Well, Mr. Cordova had explained that he was
9 present during the Molina -- there is a little bit of
10 background to this. He explained that he was present
11 during the Molina homicide.

12 Q. When did he tell you that?

13 A. When I first met him in January.

14 Q. Okay.

15 A. So he had some knowledge. If I remember
16 correctly, he had lived in yellow pod at the time of
17 the homicide. And he had some information based on
18 his experiences that he thought Carlos Herrera and
19 Rudy Perez were involved in that homicide. And I'll
20 be honest, that was relatively new information to me.

21 Q. When you heard that -- did you hear that on
22 January 16?

23 A. Yes.

24 Q. And then what happened?

25 A. He felt that if he were near those guys, he

1 could get them to talk about the homicide. And I
2 thought that was a good idea. I just wanted to make
3 sure that if there was any conversation it was
4 recorded so it wasn't just him coming back and
5 telling me: Yeah, they admitted it. So I discussed
6 that with my counterparts at the STIU.

7 And I don't know their full process of
8 figuring out how they can get folks next to each
9 other, but what was represented to me was that Carlos
10 Herrera was already there, and that Mr. Cordova could
11 be placed next to him. And that Mr. Perez had some
12 kind of pending disciplinary issue, where he was --
13 don't misquote me, but he was due to be sent to the
14 Level 6, something of that nature.

15 Q. And what happened when STIU provided you
16 that information about where Mr. Herrera was placed
17 and where Mr. Perez was going to be placed?

18 A. Well, I represented that, if that was
19 possible, then I wanted Cordova to be next to him and
20 to be wired up.

21 Q. And was Mr. Cordova placed next to Carlos
22 Herrera and Rudy Perez?

23 A. He was.

24 Q. And was he, as you said, "wired up"?

25 A. Yes.

1 Q. Did you direct STIU or anyone at
2 Corrections to place either Mr. Perez or Mr. Herrera
3 in the cell at PNM at which they were placed at that
4 time?

5 A. No.

6 Q. Did you ask for Mr. Perez or Mr. Herrera to
7 be placed in any form of restrictive housing?

8 A. No.

9 Q. So I want to talk to you a little bit about
10 the process of Mr. Cordova being wired up. Do you
11 provide any instructions or admonitions to a
12 cooperating source when they're going to be wired up?

13 A. Yes.

14 Q. Did you do that with Mr. Cordova in this
15 case?

16 A. I did.

17 Q. What did you tell him?

18 A. Well, you asked two questions there. So
19 the admonishments that we do are standard
20 admonishments with any informant when we open them.
21 We need to do that within 90 days or sooner if we're
22 going to start tasking them. So in the case of Mr.
23 Cordova, I met him in January, and he was wired up
24 and in the facility by February. So we moved fairly
25 quickly on that.

1 Q. All right. And what are those
2 admonishments generally?

3 A. Sure. There is four mandatory
4 admonishments. And they are that the person know
5 that their participation or work for the FBI is
6 completely voluntary; that the FBI will strive to
7 protect their identity, but there are circumstances
8 where we're unable to do that, such as legal
9 proceedings; that they have to be truthful with us.
10 I have some notes that I'm going to refer to.

11 Q. That's fine.

12 A. Oh, and that they must follow these
13 admonishments and not take any independent action.
14 Those are the four required admonishments. There are
15 a dozen or so of what I'll call special
16 circumstances. For example, if a person is
17 represented by legal counsel, there are extra
18 admonishments, or if they work for the media, or they
19 have access to medical information. So with each
20 these informants, when we do the admonishments, we'll
21 note which ones we gave them, and those would be
22 reflected in their file.

23 Q. Did you note which admonishments you gave
24 to Mr. Cordova?

25 A. Yes, they're noted in his file.

1 Q. And did you note which admonishments you
2 gave to Mr. Cordova?

3 A. My notes don't, but his informant file
4 does.

5 Q. Beyond those four general admonishments,
6 did you give any admonishments to Mr. Cordova in
7 addition to those four?

8 A. Yes. The other -- so the official
9 admonishments were noted in his file, and will still
10 be contained in his file. The other what I'll call
11 directions or guidance I gave him --

12 Q. All right. Let me stop you there. I think
13 you earlier said that I asked two questions,
14 admonishments and instructions. I just want to make
15 sure we're all following you. Are we now moving to
16 the instructions that you gave him?

17 A. We are.

18 Q. And what were those instructions that you
19 gave him?

20 A. They primarily had to do with the devices,
21 him making recordings.

22 Q. And what were those instructions about the
23 devices and the recordings?

24 A. I pointed out that the recording devices
25 were simple. We had a conversation about the

1 devices. Because I had introduced more complex
2 devices and they were failing.

3 Q. Had you introduced those more complex
4 devices with Mr. Cordova in the past?

5 A. No. With other informants in the prison.

6 Q. All right. What instructions did you give
7 to Mr. Cordova about the device that you sent in with
8 him?

9 A. That we dumbed it down. This is a simple
10 device. It's small; consequently, the batteries are
11 small. If you can get these guys talking about the
12 murders, either the murder of Molina or any other
13 murders, that's what I'm interested in. I'm not
14 interested in drug talk, exploits with girlfriends,
15 or life stories. What I'm looking for is specific
16 talk about homicides. I told him to be cognizant of
17 the battery life because there is no way to tell from
18 the device how much battery life is left. And to be
19 careful with the device, because the correctional
20 staff in the prison -- no one knew that these guys
21 had it. Only STIU and Deputy Secretary Myers were
22 aware of it. And then I asked him some questions
23 about whether or not he thought, based on his
24 experience at the Level 6 and Level 5, if he could
25 conceal it, if he thought it would be found in a

1 shakedown or other scenarios.

2 Q. And what did he say in response to those
3 questions?

4 A. He thought he could conceal it. He had
5 some concerns because some of the devices -- not all
6 of them -- have lights. And from my conversation
7 with him and other informants, I knew that the
8 majority of their conversations took place under
9 their bunks, because that's where the vent is located
10 between the cells, and that's a relatively -- can be
11 a dark area, and this light might illuminate. I knew
12 from some failed experience with other informants
13 that that light was a problem. But, ultimately, Mr.
14 Cordova was positive and thought that he could pull
15 it off.

16 Q. Did you give him any instructions about
17 saying a preamble before he starts a recording, or
18 any additional instructions telling him about the
19 simplicity of the device?

20 A. Yes, I told him when he could, try to put
21 the date on there. And if he was talking about a
22 group of people, or more than one, to make it clear
23 who he was speaking with, to say their name in the
24 conversation. Or when he walked away, if he could
25 get to the other end of the cell and whisper into it.

1 Q. Have you listened to all the recordings
2 that Mr. Cordova took inside the prison?

3 A. I have.

4 Q. Did he give that preamble of the date or
5 names of everyone he was talking to in every
6 recording?

7 A. No.

8 Q. I want to talk to you now about the
9 recordings made in this case. You said that you had
10 heard all the recordings Mr. Cordova took, right?

11 A. I have.

12 Q. And those include the recordings of Mr.
13 Herrera?

14 A. Yes.

15 Q. Do those also include the recordings of Mr.
16 Perez?

17 A. Yes.

18 Q. I want to talk to you about the recordings
19 involving Mr. Perez. And I'm going to give you seven
20 discs and transcripts. And if you'd review them and
21 tell me whether these are the recordings that Mr.
22 Cordova made of Mr. Perez. Are those Mr. Cordova's
23 recordings of Mr. Perez?

24 A. Yes.

25 MR. BECK: Your Honor, at this time, the

1 United States is going to move into evidence these
2 seven recordings, and we're going to continue the
3 numbering from the last motions to suppress hearing.

4 THE COURT: Is there a reason to do that?
5 Should we keep these separate?

6 MR. BECK: I think we were going to
7 incorporate some of the exhibits from the last motion
8 to suppress hearing into this motion to suppress
9 hearing.

10 THE COURT: Okay.

11 MR. BECK: It seems to me it makes sense
12 for the Government to do that. If the defendants --
13 since Mr. Herrera, I don't think, has entered any
14 exhibits, you might start over and Mr. Perez might
15 continue on.

16 THE COURT: All right. So what are your
17 numbers here?

18 MR. BECK: I might ask for some help.

19 THE COURT: I've got 30 as being your last
20 one. Does that sound about right?

21 MR. BECK: Yes, Your Honor.

22 THE COURT: So do you want to go with 31?

23 MR. BECK: Yes.

24 MR. VILLA: Your Honor, do we want to do 31
25 for the disc and the 31A for the corresponding

1 transcript?

2 THE COURT: Do you want to do that?

3 MR. BECK: I think that makes sense, Your
4 Honor.

5 THE COURT: All right. So you've got 31
6 through 38, and then the transcripts will be A for
7 each one; is that correct?

8 MR. BECK: I must have miscounted. We have
9 31 through 37. We'll have 31A through 37A.

10 THE COURT: All right. Any objections?
11 All right.

12 MR. VILLA: Not for purposes of this
13 hearing. I just want to clarify, so we have six
14 discs and six transcripts?

15 MR. BECK: Yes, we do. And I have an
16 additional copy of each one of the discs for the
17 defense.

18 MR. VILLA: No objection.

19 THE COURT: All right. Any other
20 objections or comments? All right. Government's
21 Exhibits 31, 32, 33, 34, 35, 36, and 37 will be
22 admitted into evidence. And Government's Exhibit's
23 31A through 37A will be admitted into evidence.

24 MS. DUNCAN: Your Honor, for us in the back
25 of the courtroom, we have trouble seeing the Elmo.

1 So would you mind telling us the Bates numbers of the
2 transcripts, and we can pop them up on our computer.

3 MR. BECK: Transcript 31A will begin at
4 Bates No. 2534 and continue through 2542. Transcript
5 32A will start at 2543 and continue through 2548.
6 Transcript 33A will begin at 2549 and continue
7 through 2568. Transcript 34A will start at 2553,
8 continuing through 2568. Transcript 35A will start
9 at 2569 and continue through 2571. Transcript 36A
10 will begin at 2572 and continue through 2584.
11 Transcript 37A begins at 2585 and continues through
12 2586.

13 MR. JEWKES: Your Honor, may it please the
14 Court. Could you have Mr. Beck announce the page
15 range one more time for 31A, please?

16 MR. BECK: Transcript 31A begins at page
17 2534 and continues to 2542.

18 MS. JACKS: Your Honor, it looks like 33A
19 and 34A are crossing over in the same page ranges.
20 Can we read those again?

21 MR. BECK: 33 and 34.

22 MS. JACKS: Yes.

23 MR. BECK: 33A is 2549 through 2552. 34A
24 is 2553 through 2568.

25 MS. JACKS: Thank you.

1 MR. VILLA: Your Honor, I'm going to ask
2 the Court -- the rule has been invoked. Mr.
3 Cordova's attorney, I believe, is present in the
4 courtroom. I don't know that he has to be excused.
5 But maybe you could notify him the rule has been
6 invoked and he can't speak to his client about any of
7 the testimony that's taken before he testifies.

8 THE COURT: Is Mr. Samore, are you Mr.
9 Cordova's attorney?

10 MR. SAMORE: Yes, sir.

11 THE COURT: All right. So the rule has
12 been invoked.

13 MR. SAMORE: It has?

14 THE COURT: It has. Well, I think nobody
15 is saying you can't be here. But just be aware that
16 you can't be a conduit back to your client as to
17 what's going on here. And I know that now that you
18 know the rule is invoked, you wouldn't.

19 MR. SAMORE: We are very conscientious of
20 that, and I don't intend to see him until after he
21 testifies.

22 THE COURT: All right. Thank you, Mr.
23 Samore. Good morning to you.

24 BY MR. BECK:

25 Q. Special Agent Acee, in preparation for your

1 testimony today, did you review two New Mexico State
2 Police recordings of Mr. Perez?

3 A. I did.

4 Q. And I'm showing you what we'll mark as
5 Government's Exhibit 38 and Government's Exhibit 39.
6 Are those the two recordings that you reviewed of Mr.
7 Perez' interviews with the New Mexico State Police in
8 this case?

9 A. They are.

10 Q. And what's your understanding of when those
11 interviews took place?

12 A. Shortly after the homicide of Javier
13 Molina.

14 Q. Special Agent Acee, what was the date of
15 the first interview with Mr. Perez?

16 A. March 8, 2014.

17 Q. And what was the date of the second
18 interview with Mr. Perez?

19 A. March 10, 2014.

20 MR. BECK: Your Honor, at this time, the
21 United States moves into evidence Government's
22 Exhibit 38 and 39, which are the first and second
23 interviews respectively.

24 THE COURT: Any objection?

25 MR. VILLA: So 38 is March 8 and 39 is

1 March 10?

2 MR. BECK: Yes.

3 MR. VILLA: No objection for this hearing.

4 THE COURT: Anybody else have any comments
5 or objections? Ms. Duncan?

6 MS. DUNCAN: Your Honor, we have no
7 objection. We would again ask for the Bates range.

8 THE COURT: All right. So not hearing any
9 other objections, Government's Exhibits 38 and 39
10 will be admitted into evidence.

11 Mr. Beck, do you mind providing those Bates
12 ranges?

13 MR. BECK: I don't and I will after the
14 break. It doesn't say on these DVDs what are the
15 Bates numbers for the DVDs. But I will provide that
16 on the record after the break.

17 THE COURT: All right. Does that seem
18 satisfactory, Ms. Duncan?

19 MS. DUNCAN: It does, Your Honor.

20 THE COURT: Mr. Beck.

21 Q. You've listened -- have you listened to
22 these recordings that Mr. Cordova took of Mr. Perez?

23 A. Yes.

24 Q. And have you listened to the New Mexico
25 State interviews of Mr. Perez?

1 A. I have.

2 Q. Does it sound like Mr. Perez is under the
3 influence of drugs during the interviews that Mr.
4 Cordova took of Mr. Perez?

5 MR. VILLA: Objection; lack of foundation,
6 speculation.

7 THE COURT: Well, I'm going to have to
8 figure out whether this evidence is admissible. So
9 I'll start letting people tell me what they think on
10 this stuff, because I'm going to need help deciding
11 whether it's involuntary. So I'm going to allow it.
12 Because the Government has got to function here and a
13 responsibility not to get information that's
14 involuntary, so that's everybody's responsibility.
15 Overruled.

16 A. It did not sound to me like he was.

17 Q. Why is that?

18 A. Well, I've listened to the recordings
19 several times. I understand that it's been alleged
20 that Mr. Perez was under the influence of Suboxone
21 provided by Mr. Cordova. In light of that, when I
22 listened to it, and I compare that to my experiences
23 earlier in my career of arresting people for being
24 under the influence, such as in cases of DUI, or my
25 experiences as a law enforcement officer in

1 California, where it was unlawful to be under the
2 influence of a controlled substance, I have conducted
3 those investigations. And my review of Mr. Perez'
4 statements is, he didn't sound like he was under the
5 influence of a central nervous system depressant.

6 Q. You talked about your previous DUI
7 experience. Have you had experience in detection of
8 persons being under the influence of narcotics or
9 alcohol?

10 A. I have.

11 Q. What is that experience?

12 A. In addition to just the basic California
13 Highway Patrol Academy, and experience arresting
14 persons under the influence, I also completed their
15 advanced drug training 40-hour course, and their drug
16 recognition expert, 80-hour course, to be able to
17 make determinations of people being under the
18 influence of controlled substances. That was quite
19 some time ago, late '90s, early 2000s. I haven't
20 kept those certifications up. But in my time as a
21 police officer/detective, I arrested a lot of people,
22 and many of those arrests were for being under the
23 influence of alcohol or narcotics.

24 Q. The 40-hour and the 80-hour training you
25 talked about for detecting persons under the

1 influence of alcohol or narcotics, are those in
2 addition to the general training you had received as
3 a California State Highway Patrol Officer?

4 A. Yes, sir.

5 Q. What's the purpose of that additional
6 training for you?

7 A. It was to be able to arrest people for
8 being under the influence of substances other than
9 alcohol. And then to be able to arrest people for
10 violations of 11-550 of the Health and Safety Code,
11 the California Health and Safety Code, that is; that
12 is being under the influence of a controlled
13 substance. To walk around in public in California
14 and be under the influence was a crime. And so the
15 California Highway Patrol saw fit to have officers
16 that were able to make those evaluations. So that's
17 the training that I underwent.

18 Q. And did you perfect those arrests under the
19 California State Health Code for people being under
20 the influence after that training?

21 A. I did when asked to do, so yes.

22 Q. And although it was some time ago, did you
23 apply that training and experience when you listened
24 to these recordings that Mr. Cordova took of
25 Mr. Perez?

1 A. I did, as well as, even as an FBI agent,
2 I'm still frequently talking with and dealing with
3 people that are under the influence of either heroin
4 or methamphetamine or other substances.

5 Q. Did you specifically listen to these
6 recordings of Mr. Perez, Mr. Cordova took, to
7 ascertain whether, in your training and experience,
8 Mr. Perez was under the influence of narcotics or
9 other drugs?

10 A. I did. In the last couple of weeks, I went
11 back and listened to them again, to see if I could
12 discern anything.

13 Q. Before you sent Mr. Cordova into the prison
14 to record conversation with Mr. Perez, did you know
15 about any psychological conditions that Mr. Perez
16 had?

17 A. No.

18 Q. Did you instruct Mr. Cordova to take
19 advantage of any psychological conditions that Mr.
20 Perez might have?

21 A. No.

22 Q. Did Mr. Cordova tell you he intended to
23 take advantage of any alleged psychological problems
24 Mr. Perez had?

25 A. No.

1 Q. Did you provide Suboxone to Mr. Cordova to
2 take into the prisons when he was recording these
3 conversations with Mr. Perez and Mr. Herrera?

4 A. No.

5 Q. Did you know that Mr. Cordova took in
6 Suboxone to the prisons during this time?

7 A. No. And I don't think that he did.

8 Q. Why don't you think that?

9 A. I don't have any information to believe
10 that he did. I've talked to him about that, and he
11 denies that. I didn't overhear any conversations in
12 which that took place. And each time I had to send
13 in a recording device or switch it out, that was
14 accomplished through STIU shaking down his house or
15 his cell. And they didn't find any contraband
16 either.

17 Q. What does shaking down his house or his
18 cell mean?

19 A. Searching it.

20 Q. To your knowledge, did Mr. Cordova have
21 Suboxone or drugs in the prison during the times he
22 was recording Mr. Perez or Mr. Herrera?

23 A. No.

24 Q. Did you instruct Mr. Cordova to threaten
25 Mr. Perez or Mr. Herrera to take these statements

1 from them?

2 A. No.

3 Q. Did you instruct him to promise Mr. Herrera
4 or Mr. Perez anything in return for these statements?

5 A. No.

6 Q. To your knowledge, did Mr. Cordova threaten
7 or promise anything to Mr. Perez or Mr. Herrera to
8 receive these statements?

9 A. No.

10 Q. In preparation for your testimony did you
11 also listen to the recordings Mr. Cordova took of Mr.
12 Herrera?

13 A. I did.

14 Q. Did you also, listening to these
15 recordings, specifically listen for whether, in your
16 training and experience, Mr. Herrera was under the
17 influence of drugs or narcotics?

18 A. I did.

19 Q. And based on that training and experience,
20 and specifically listening to those conversations,
21 did you conclude that Mr. Herrera sounded like he was
22 under the influence of drugs or narcotics?

23 A. He did not sound like he was under the
24 influence.

25 Q. Why is that?

1 A. Well, in listening to him speak, I didn't
2 detect that he was. I also recall some comments
3 where Mr. Cordova and one of the other inmates was
4 talking about Mr. Herrera doing bad, which I
5 understand to mean needing drugs, not high on drugs.

6 Q. Why do you understand that to mean needing
7 drugs?

8 A. That's just a term that people who use
9 drugs or are part of that subculture, if you will,
10 that's a term they use to describe -- they'll say:
11 I'm doing bad. And that means they're in need of a
12 fix or they're in need of drugs, as opposed to are
13 doing bad because now I'm high and I have drugs.

14 Q. When you listened to that conversation, did
15 you get the impression from your training,
16 experience, and knowledge that Mr. Herrera was on
17 drugs while making those statements?

18 A. No.

19 Q. Did you also review a conversation in which
20 Mr. Herrera -- or excuse me -- excuse me, it's not
21 Mr. Herrera. Did you also review a conversation in
22 which Mr. Cordova discussed drugs and drug prices
23 with another inmate?

24 A. Yes.

25 Q. What was that conversation?

1 A. That conversation is contained on the
2 Herrera recordings, and it's Mr. Cordova and another
3 SNM member named Dale Chavez, whose alias is
4 "Dreamer." Mr. Chavez and Mr. Cordova are debating
5 or having a conversation about the price of Suboxone
6 on the streets. Mr. Cordova had been on the streets
7 more recently than Mr. Chavez, and they had a
8 disagreement with the prices. They also were talking
9 about the prices of Suboxone inside the prison versus
10 on the streets.

11 Q. Was Mr. Cordova selling Suboxone to
12 Mr. Chavez during that conversation?

13 A. No, it was more the opposite. He was
14 talking about buying some from him. In the
15 context -- I looked at that transcript a few times.
16 What it sounds like to me is he's trying to set up a
17 deal where he could have somebody purchase it on the
18 streets for him, and what those prices would be, and
19 then what they would cost inside. And I think that
20 that is in line with what our objectives were.
21 Because, at that time, I was contemplating
22 introducing another cellphone into the institution,
23 and in this case to Mr. Cordova. So part of his role
24 would have been to introduce undercover FBI agents on
25 the streets to purchase drugs to make it look like we

1 were smuggling them into the prison.

2 Q. Did you ever smuggle drugs into the prison
3 through Mr. Cordova?

4 A. No.

5 Q. So we talked about Mr. Cordova supplying
6 drugs.

7 I want to talk to you about Mr. Herrera's
8 psychological condition. Did you ever know about any
9 psychological condition that Mr. Herrera had during
10 these recordings?

11 A. No, I don't know about any of his medical
12 conditions.

13 Q. Did the FBI know about any of his
14 psychological conditions, if he has any?

15 A. No.

16 Q. Did you tell, instruct, or did anyone from
17 the FBI instruct Mr. Cordova about Mr. Herrera's
18 psychological conditions, if he had any?

19 A. No.

20 Q. Did you instruct Mr. Cordova to take
21 advantage of any of Mr. Herrera's psychological
22 conditions, if he had any?

23 A. No.

24 MR. BECK: May I have a moment, Your Honor?

25 THE COURT: You may.

1 Q. Special Agent Acee, when Mr. Cordova
2 arrived at the PNM North facility, do you know who he
3 was placed next to first?

4 A. I believe he was next to Mr. Herrera first.

5 Q. And at the same time was he next to Mr.
6 Perez?

7 A. No. Because those recordings took place in
8 different facilities.

9 Q. So after he was placed next to Mr. Herrera,
10 was he moved to be placed next to Mr. Perez?

11 A. Yes.

12 Q. Did you coordinate that movement of Mr.
13 Cordova?

14 A. No.

15 MR. BECK: Pass the witness, Your Honor.

16 THE COURT: Thank you, Mr. Beck.

17 Ms. Bhalla, do you want to start the
18 cross-examination?

19 Mr. Villa?

20 MR. VILLA: I think I'm going to go first
21 on this one, if that's okay.

22 THE COURT: All right. Mr. Villa.

23 MR. VILLA: Thank you, Your Honor.

24 THE COURT: Mr. Villa.
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EXAMINATION

BY MR. VILLA:

Q. Good morning, Agent Acee.

A. Good morning, sir.

Q. So if I understand it correctly, you were at MDC, which is the Bernalillo County Metropolitan Detention Center, in January of 2016?

A. Yes.

Q. And that is the first time you spoke to Billy Cordova?

A. It is.

Q. You said you were there with other agents and STG folks?

A. Yes.

Q. The other agents being FBI agents?

A. Yes.

Q. What about STIU?

A. No.

Q. Anybody from New Mexico Corrections Department?

A. Mark Myers may have been there.

Q. Okay. May have, or he was?

A. Well, he's usually with us, but he sometimes has to go up to Santa Fe for stuff. I'd have to look at the reports.

1 Q. If you saw the report of that initial
2 interview, would that refresh your recollection?

3 A. Yes.

4 Q. So the Court knows, I imagine the Court
5 knows, but who is Mark Myers?

6 A. At that time, Mark Myers was a Deputy
7 Secretary. I can summarize it -- and he was our
8 go-to person for the Department of Corrections,
9 because Mr. Marcantel was a victim.

10 Q. I understand.

11 MR. VILLA: May I approach?

12 THE COURT: You may.

13 Q. Agent Acee, I'm handing you what -- I call
14 it a 302; I'm not sure if it is. But can you tell me
15 if that's the report for your initial interview with
16 Billy Cordova?

17 A. This isn't the initial one.

18 Q. What is it?

19 A. This is similar to a 302. This is a 1023.
20 I'm sure you have lots of these. This is when a
21 person has been opened as an informant, and this is
22 how we take in information from the informant. So
23 what this is is -- looks like this is a debrief of
24 Mr. Cordova, although the CHS number is blocked out,
25 but this is actually taking place back at our office,

1 the FBI office.

2 Q. Okay. So let's back up just a little bit.
3 What's the date of that interview?

4 A. The 7th of January, 2016.

5 Q. And can you tell me if this was before or
6 after the meeting at MDC?

7 A. Looks like it was three days after, because
8 on the first sentence I say, "On January 4th, this
9 confidential human source indicated to me that he
10 wished to leave the SNM." So on the 7th, we
11 interviewed him at our office.

12 Q. So does the report there indicate who was
13 with you on January 4?

14 A. It does not.

15 Q. Does the report indicate who was with you
16 on January 7?

17 A. Yes, sir.

18 Q. Was Mr. Myers present?

19 A. He was.

20 Q. Were there also other individuals present
21 from the New Mexico Department of Corrections?

22 A. There were three STIU officers present.

23 Q. And who were they?

24 A. Captain Sergio Sapien, Sergeant Ronald
25 Martin, and Officer Chris Cupit.

1 Q. Mr. Martin, that being the same individual
2 who testified here a couple weeks ago during the
3 Daubert hearings?

4 A. Yes, sir.

5 Q. And what was the purpose of the interview
6 at your office of Mr. Cordova?

7 A. This was the first in-depth debrief,
8 because my time with him at MDC was limited.

9 Q. Did you prepare a report of the January 4th
10 interview?

11 A. I'm not sure. I may not have.

12 Q. So the January 7 was the more in-depth
13 debrief, the one you have there in front of you?

14 A. I would call that the first debrief, yes.

15 Q. And individuals from the New Mexico
16 Department of Corrections were there throughout the
17 debrief?

18 A. There were four of them there.

19 Q. And they stayed there the whole time?

20 A. I think so, yes.

21 Q. Were they also part of the plan that you
22 formulated to have Mr. Cordova take recording devices
23 and talk to other suspects?

24 A. Absolutely. It can't happen without them.

25 Q. Got it. Now, getting back to the January

1 4th meeting at MDC, Mr. Myers may have been there;
2 there was STG -- and those are STG folks from MDC;
3 correct?

4 A. Yes.

5 Q. Are you aware that those STG folks
6 communicate with STIU about shared intelligence and
7 things like that?

8 A. I think they do.

9 Q. Was anybody else besides other FBI agents,
10 maybe Mr. Myers, and STG present?

11 A. I think that Sergeant Nathan Lerner would
12 have been present, because he was the supervisor over
13 that unit, and the debriefing took place in his
14 office. So I think he was there.

15 Q. Sergeant Lerner of MDC?

16 A. He was actually a Bernalillo County
17 sergeant at that time. He's retired now. He had
18 worked the SNM for many years and had knowledge of
19 them. I'm pretty sure he was there as well.

20 Q. Understood. Did Mr. Cordova have an
21 attorney present during that January 4th visit?

22 A. He did not.

23 Q. Did he have an attorney present at the
24 January 7th visit?

25 A. No.

1 Q. Do you know if he had an attorney at the
2 time that he was interviewed?

3 A. Well, he had an attorney in his state case.
4 But he had already been sentenced on the state case.
5 It wasn't until sometime later that we got him a
6 federal attorney through giving him a target letter.

7 Q. And you did that after these two debriefs?

8 A. Yes, sir.

9 Q. Do you know where Mr. Cordova was prior to
10 the time he was at MDC?

11 A. My impression is he'd been there almost a
12 year; that he'd been at MDC for about a year.

13 Q. Did you investigate that aspect -- I mean,
14 after you talked to him and thought about this, did
15 you look into where he had been prior to MDC?

16 A. No. The only investigation I did was to
17 confirm that he'd been sentenced. Because I had some
18 concerns talking to him. And I made it clear to him
19 that I didn't have any questions about his pending
20 state case. That's the only thing I looked into.

21 Q. What was that pending state case?

22 A. He was charged with first degree murder.
23 He was sentenced on a manslaughter.

24 Q. Did you do any further investigation as to
25 other prior convictions of Mr. Cordova?

1 A. Yes. I did that when I opened him as an
2 informant. That's one of the categories we have to
3 populate, if you will, in the opening documents.

4 Q. Okay. So I'll ask you about that in just a
5 minute. Was it then, during the January 7th
6 formal -- more formal debrief that you guys talked
7 about introducing him into the prison with recording
8 devices?

9 A. I believe so.

10 Q. And it's your testimony, I think, that you
11 didn't control where Mr. Cordova actually went?

12 A. No. I mean, I think I have lots of good
13 ideas, but the Corrections Department doesn't always
14 listen. So it's entirely up to them.

15 Q. So when did you first learn where Mr.
16 Cordova was going to go?

17 A. I think once he arrived.

18 Q. When you say "once he arrived," what do you
19 mean?

20 A. Once he -- because, again, he was still at
21 MDC, and he hadn't been transferred yet. I didn't
22 have any involvement in that transfer, speeding it up
23 or slowing it down, or otherwise.

24 I was notified by the STIU once -- I think
25 I got some updates as to Mr. Cordova's progress in

1 being transferred from MDC to Corrections. And then,
2 at some point, they let me know what facility he was
3 at. And I'll be honest with you, early on in the
4 case, I was confused, like everyone else, about the
5 North and the South and Southern. So it didn't much
6 matter to me where he was -- just I needed to know
7 when to introduce the recording equipment.

8 Q. When did he tell you that he thought he
9 could talk to Rudy Perez and Carlos Herrera about the
10 Javier Molina murder?

11 A. Early on. And it may have been at this
12 January 7th debrief. Because, again, I didn't know
13 who Mr. Perez was. I didn't know anything about him.
14 I knew a little bit about Mr. Herrera, and I can go
15 into that if you'd like. But I didn't know, nor did
16 I have a lot of information about them being involved
17 in that homicide. I didn't know Mr. Perez at that
18 time was alleged to have been --

19 Q. Well, let's back up then. This case was
20 originally indicted in November 2015?

21 A. Yes.

22 Q. And you were the case agent at that time?

23 A. I was.

24 Q. Counts 6 and 7 of that original indictment
25 was the conspiracy to and the murder of Javier

1 Molina?

2 A. Yes.

3 Q. And it included some of the other
4 co-defendants, but not Mr. Perez or Carlos Herrera?

5 A. Correct.

6 Q. You had investigated the Molina homicide?

7 A. Yes.

8 Q. Prior to that first indictment?

9 A. Yes.

10 Q. But you didn't know that Mr. Perez was a
11 potential suspect?

12 A. I'd seen his name mentioned in much of what
13 I refer -- I had to reference at that time was the
14 state investigation. I didn't have any cooperators
15 yet. We were looking at, at one time, as many as 30
16 homicides to charge in the SNM case. And so I didn't
17 have the knowledge that I have now at that time. No,
18 I largely relied on what had already been done, what
19 the State had done. And, as you know, Mr. Perez was
20 not a key person in that investigation, if at all.

21 Q. We might have to agree to disagree on that.

22 A. Okay.

23 Q. As of January 7, at least the idea was
24 discussed that Mr. Cordova could talk to Rudy Perez
25 and Carlos Herrera?

1 A. Yes.

2 Q. About the Javier Molina homicide?

3 A. That's correct.

4 Q. And you thought at the time that Mr.
5 Cordova was on his way to prison?

6 A. He definitely was, yes.

7 Q. But you didn't know where he was going to
8 be placed?

9 A. I did not, no.

10 Q. You didn't know where Carlos Herrera or
11 Rudy Perez were placed?

12 A. No, let me back up. Being that they were
13 all SNM, I knew that they wouldn't be at a Level 1,
14 2, or 3 facility. But I had no specific knowledge
15 about where they would be or what level or what pod,
16 or any of that.

17 Q. Some of the individuals with you on the
18 7th, they might have had an idea, right?

19 A. Sure. They're knowledgeable about that
20 stuff, definitely.

21 Q. The NMDC and STIU folks?

22 A. I don't think the NMDC guys would know as
23 much as the STIU guys would know the state prison
24 system.

25 Q. That's what I meant. On January 7th at

1 your office, STG wasn't there from MDC anymore,
2 right?

3 A. No, they were there. The MDC guys got
4 there. And that makes sense, because they're
5 probably the ones that had to transport him because
6 he had to be turned over to the state.

7 Q. So he was transported from MDC to your
8 office?

9 A. Correct.

10 MR. VILLA: And, Your Honor, I'd like to
11 mark a document for identification. Do you want us
12 to go ahead and keep going continuously from last
13 time?

14 THE COURT: Are you going to be relying on
15 anything from the prior hearing? I guess, just as a
16 general rule, I'd like keep these hearings somewhat
17 contained, rather than having just a running number.
18 Now, the Government said they were going to use some
19 of the exhibits from the prior hearing. Are you?

20 MR. VILLA: I mean, I don't think so off
21 the top of my head.

22 THE COURT: Why don't we do this, then: On
23 the defendants' side, why don't we just start over.
24 Why don't you start with A on this. If you need to
25 move something over, later down the road, maybe we

1 can remark it here.

2 MR. VILLA: Okay. So I'm going to mark
3 this for identification as RP-A.

4 THE COURT: All right.

5 MR. VILLA: If I could indulge the clerk to
6 borrow a stapler, it might work better than this
7 paperclip. Thank you.

8 Q. Agent Acee, I'm showing you what's marked
9 for identification as RP-A. Can you tell the Court
10 what that is?

11 A. This is a judgment and sentence for Billy
12 Cordova.

13 Q. And is this the judgment and sentence
14 related to the case that he was in MDC for, as you
15 testified here about just a little while ago?

16 A. Is it? Where are the charges?

17 Q. Oh, well, if you turn to the second page,
18 you can look and see what the charges are.

19 A. It looks like it is.

20 Q. Voluntary manslaughter?

21 A. Yes, sir.

22 Q. And does this document appear to be an
23 accurate copy of the judgment and sentence?

24 A. It does.

25 MR. VILLA: Your Honor, I'd move to admit

1 Defendant's RP-A.

2 THE COURT: Any objection, Mr. Beck?

3 MR. BECK: No objection for this hearing,
4 Your Honor.

5 THE COURT: Rudy Perez' Exhibit A will be
6 admitted into evidence. I assume nobody else had any
7 problem with it. Not hearing any, it will be
8 admitted.

9 BY MR. VILLA:

10 Q. Agent Acee, I'm going to show you this on
11 the screen. This is RP-A that we just talked about;
12 correct?

13 A. Yes, sir.

14 Q. And at the top it has the clerk's stamp
15 indicating when this was filed, does it not?

16 A. It does.

17 Q. And does it not indicate that the judgment
18 and sentence was filed May 12, 2016?

19 A. Correct.

20 Q. Which would have been approximately four
21 months after your meeting with Mr. Cordova?

22 A. Yes.

23 Q. And three months after he was sent to PNM
24 and took statements from Mr. Perez?

25 A. Correct.

1 Q. Because those statements occurred
2 approximately February 2016?

3 A. Yes.

4 Q. So you figured out fairly quickly, in
5 speaking to Mr. Cordova, perhaps in the first or
6 second meeting, that he was at Southern, down here in
7 Las Cruces, when the Javier Molina murder occurred;
8 correct?

9 A. Yes.

10 Q. He was in the yellow pod?

11 A. Correct.

12 Q. And he told you that he had -- or he knew
13 about the case or at least had an understanding of
14 what happened?

15 A. Yes.

16 Q. And at the time that you talked to him, I
17 think you testified on direct that you were compiling
18 or about to compile overt acts against Mr. Cordova?

19 A. Yes.

20 Q. To indict him?

21 A. Correct.

22 Q. Was there an understanding of which case
23 you were going to indict him? Was it going to be a
24 stand-alone or one of these cases that was already
25 pending?

1 A. I intended to include him in the RICO
2 indictment.

3 Q. The 1613 case?

4 A. Yes.

5 Q. Which I believe that came down in the
6 spring of 2016.

7 A. April, yes.

8 Q. Did you tell Mr. Cordova that you had that
9 intent?

10 A. At some point I did, yes.

11 Q. When was that point?

12 A. It may have been at the meeting on the 7th.

13 Q. So he had an understanding that he was a
14 target of yours in the SNM cases?

15 A. Absolutely.

16 Q. Did you tell him that if he cooperated, he
17 wasn't going to be indicted?

18 A. Not exactly like that. What I told him was
19 that this was coming, these indictments; the
20 dismantlement of the SNM. And I even introduced him
21 to the agent that was compiling his overt acts. And
22 I said, I guess we can stop doing that now.

23 Q. Who was that?

24 A. Thomas Neale.

25 Q. So Mr. Neale was present during this

1 meeting?

2 A. He was.

3 Q. And you said: This is the guy that's going
4 to compile the overt acts against you for this
5 racketeering indictment?

6 A. Well, that was -- that I had tasked with
7 that, and he was compiling -- he had a stack of
8 letters, and he was listening to phone calls. And
9 because Mr. Cordova was enthusiastically -- I'll
10 use -- willing to help, I was -- I think saying it
11 more as a joke, but just saying: I guess we'll be
12 done with that then; we can work on somebody else.

13 Q. Did you tell Mr. Cordova what the overt
14 acts were that you were considering?

15 A. No.

16 Q. Did you tell him the potential charges --
17 did you talked about the RICO conspiracy that he can
18 be charged with?

19 A. I won't say we talked about it. I mean, I
20 definitely said: Let me introduce you to somebody,
21 or this is, you know, Tom; he's putting together the
22 overt acts on what I intended to charge you with by
23 way of grand jury indictment.

24 Q. Did you tell him the potential penalties
25 for those charges?

1 A. No.

2 Q. The voluntary manslaughter that Mr. Cordova
3 was sentenced for, was that suspected to be an
4 SNM-related killing?

5 A. He and I probably disagreed whether or not
6 it was. But I think that it could have been included
7 in overt acts.

8 Q. So it was clear following that meeting
9 that, in exchange for his cooperation, you were going
10 to stop having Agent Neale compile overt acts against
11 Mr. Cordova for prosecution?

12 A. It was clear to Agent Neale and I. I'm not
13 sure what Mr. Cordova's understanding of that was.

14 Q. But Mr. Cordova was present when you and
15 Agent Neale reached that clarity?

16 A. Yes.

17 Q. The other individuals from NMCD and STIU
18 were there as well during that period of time.

19 A. Yes.

20 Q. After that, you testified you formalized
21 the process of opening him as a CI; correct?

22 A. I opened him as a CI after the meeting on
23 the 4th.

24 Q. After the meeting on the 4th?

25 A. Yes, sir.

1 Q. What do you have to do to open Mr. Cordova
2 as a CI?

3 A. It doesn't take a whole lot. I mean, I can
4 go through the process if you like. We have to do
5 some checks, internal checks, to make sure they're
6 not a target of another investigation. We run their
7 criminal history. We make sure -- in doing our
8 internal checks, we're checking to make sure that
9 they haven't been an FBI informant in the past, or
10 they're not currently one. Because I don't know who
11 another agent's informants are, and I don't have the
12 ability to check. So I have to go through a central
13 point of contact to check that. So I did all my
14 checks. And then I went through our system for all
15 informant things is Delta -- you might have seen that
16 on some of the paperwork. Like this form here is a
17 Delta FD 1023 document. So I opened him as an
18 informant in Delta, assigned him a code name, fill
19 out all the forms; supervisor approves it, and now
20 he's open.

21 Q. Did you speak to Mr. Cordova around this
22 point in time, I guess in one of these two meetings,
23 about the consideration he might receive for becoming
24 an informant?

25 A. No. The only consideration he may have

1 been aware of -- I guess that's a better question for
2 him -- but the only thing he may have been aware of
3 was that he was a target and now he's not.

4 Q. So I'm not asking you to tell me what he
5 thought. But did you tell him he could be paid
6 money?

7 A. No, I don't think I did.

8 Q. At any point in time, did you talk to him
9 about being paid money?

10 A. I think, down the road at some point in
11 time we had a conversation about that. When he got
12 out of prison. He indicated he'd like this kind of
13 work. And I said, Well, if you want to make -- it's
14 not much of a career, but if you want to do this when
15 you get out, I can look at relocating you to another
16 city, where you can work for another agent. A lot of
17 these guys thought they wanted to do that kind of
18 thing. So I think that's the only time I talked
19 about that.

20 Q. And at what point in time was that?

21 A. This is quite some time later. At that
22 time he was living in the cooperator pod up at PNM
23 with the other cooperators. So his operational
24 duties, if you will, were already -- had concluded.

25 Q. When did his operational duties end?

1 A. In my mind, they ended with the Phase 2
2 takedown in April of 2016. Because he was burnt.

3 Q. You mean when Mr. Perez and Mr. Herrera
4 were indicted?

5 A. Yes, sir.

6 Q. And I guess it began in January of 2016?

7 A. Yes. He was opened in January, but
8 operationally, he wasn't working until February, when
9 he did the recordings.

10 Q. Getting back to the opening process. If a
11 CI turns out to be the target of another
12 investigation, are they disqualified from becoming
13 your CI?

14 A. Not necessarily. I mean, that could be an
15 opportunity for the case agent that's targeting him.
16 Let me back up actually. It could. It just really
17 depends on the circumstances.

18 Q. What about if they're an informant being
19 used by another agent, you discover that in your
20 checks, does that disqualify them?

21 A. No. Because in that case, another FBI
22 agent -- I mean, they're already opened. So, you
23 know, shame on me for not -- that's one of the first
24 questions I'll usually ask: Have you ever done this
25 before? Have you ever worked for anybody? Try to

1 get that out of the way right away, so I know what
2 their experience is being an informant.

3 Q. Over the period of time that Mr. Cordova
4 was operational you testified about, essentially, the
5 late winter and spring 2016, he was paid for the work
6 that he did; correct?

7 A. No, I disagree with that. I think he was
8 given some -- monetary funds were put on his
9 commissary account. But in my mind that's different
10 than paying him. But I'll defer to you.

11 Q. Well, I guess on that I'd probably defer to
12 the Judge. But let me just make sure we clarify.
13 There is documentation from the U.S. Attorney's
14 Office that has been disclosed to us that Mr. Cordova
15 received \$600.

16 A. Yes, sir. To be clear, those are payments.
17 I mean, what Eric Duran got, in my mind, was a
18 payment. What these guys got was 50 bucks a month in
19 commissary to buy extra soup and make phone calls.

20 Q. Okay. So Eric Duran got something on the
21 order of \$45,000?

22 A. Something like that.

23 Q. That's a good year's salary for a nice
24 paying job?

25 A. Sure.

1 Q. Okay. Mr. Cordova received \$600. And what
2 I'm trying to get at is how he got that. So is it
3 your testimony that that 600 was the sum total of
4 money that was put on his commissary?

5 A. Yes, sir. That's us putting what averages
6 to maybe \$50 a month in commissary. It's money that
7 I check out, the FBI gives to me; I pull out of the
8 bank; I then deliver it to the Department of
9 Corrections, and they put it on his commissary
10 account.

11 Q. Well, if he's -- I'm no math whiz, but if
12 he's working for you January through April, that's
13 approximately four months. It averages to a little
14 more than \$50 a month, right?

15 A. Let's be clear, January to April is
16 operational. But I didn't close it. I mean, he's
17 still an informant. Just because he's no longer
18 operational, I'm not going to cut off the guy's
19 commissary. That might cause some problems between
20 us.

21 Q. So you kept the gravy train going for a
22 period of time?

23 A. Is it a gravy train? I guess.

24 Q. \$50 a month is what you think was provided
25 to Mr. Cordova for some period of time?

1 A. That's an average. We never negotiated a
2 deal. That's just what I either did or instructed
3 the agents that worked with me to do.

4 Q. When did that begin?

5 A. I'm not sure. But what I can tell you is
6 to any monies that were put on any of these guys',
7 these cooperators' accounts, there are receipts that
8 are signed and there is paperwork on it. So I would
9 defer to that paperwork.

10 Q. Can you tell me if it began before Mr.
11 Cordova began recording statements with Mr. Perez?

12 A. I don't think it began before. It probably
13 started in February, around the same time.

14 Q. Around the same time?

15 A. Yes, sir.

16 Q. And did it just -- for Mr. Cordova, if you
17 know, did it just appear on his account as a
18 Christmas present, or did you or one of your agents
19 inform him it was coming?

20 A. I'm sure we had a conversation about it,
21 and he had to sign a receipt for it. So there would
22 have been some conversation. As to how it appeared,
23 we would cause it to show up on their account as if a
24 family member posted that money, not the FBI.

25 Q. So it would look like it came from a family

1 member, but Mr. Cordova would know, because you told
2 him, it was coming from you?

3 A. That's fair to say. And, again, he'd have
4 to sign an FBI receipt acknowledging that he received
5 that money.

6 Q. Understood. When you open up Mr. Cordova
7 specifically as an informant, is there any sort of
8 agreements that he signs?

9 A. No.

10 Q. At any point in time, did you guys broker a
11 deal: If you do this, I'm not going to charge you in
12 this RICO indictment?

13 A. No. I mean, I've described what our
14 informal conversation was. But there was nothing
15 formal like that, there was nothing like that in
16 writing, no.

17 Q. To this day, there isn't?

18 A. No. I mean. He got a Kastigar letter at
19 this point. I know that the U.S. Attorney's Office
20 and his attorney had some conversations. But between
21 me and Mr. Cordova there was no formalized contract
22 or agreement like that.

23 Q. Now, getting back to where Mr. Cordova was
24 going to be sent to, I think you testified that,
25 initially, you thought he was going to go to PNM

1 South or North?

2 A. Yes.

3 Q. Why did you think that?

4 A. Because the Department of Corrections,
5 following the Molina homicide, moved all the SNM up
6 to PNM.

7 Q. Either North or South?

8 A. Yes. I believe the majority of their pods
9 were in the South. And the only guys that were in
10 the North were there on disciplinary problems, is my
11 understanding.

12 Q. You testified -- and maybe we've gone over
13 this a bit -- you testified that when Mr. Cordova
14 told you he thought he could talk to Rudy Perez and
15 Carlos Herrera about the Javier Molina homicide, that
16 was sort of new information to you?

17 A. Yes.

18 Q. And I guess it was in January of 2016 that
19 you sort of connected the two dots: Billy Cordova,
20 who you were investigating, Javier Molina homicide,
21 which you had investigated, and potentially Rudy
22 Perez and Carlos Herrera?

23 A. Yes, because when Billy told me he'd been
24 in yellow pod, I'd probably seen that information
25 before, but that kind of jumped out at me.

1 Q. Did Mr. Cordova tell you that he had spoken
2 to Mr. Perez prior to the date of your meeting with
3 Mr. Cordova in January?

4 A. Well, he represented that they were friends
5 and carnals, and -- yes.

6 Q. When he says they're carnals, what does
7 that mean?

8 A. They're both SNM members in good standing.

9 Q. What about Carlos Herrera? I think I
10 brushed over that. You said you had some information
11 about Mr. Herrera prior to Mr. Cordova mentioning
12 him?

13 A. Yes. And that revolved around Mr.
14 Cordova's -- I'll call it business relationship --
15 with Mr. Herrera's mom and some of his brothers.

16 Q. So Mr. Cordova had a business relationship
17 with Mr. Herrera's mom and brothers?

18 A. Yes.

19 Q. That business relationship being drugs?

20 A. Correct.

21 Q. Illegal drugs?

22 A. The sales of illegal drugs.

23 Q. Including drugs, bringing drugs inside the
24 prison; correct?

25 A. I don't know how accomplished or

1 experienced Mr. Cordova was at that. I know that he
2 was, by all accounts, a pretty good drug dealer on
3 the streets. I think that he obtained heroin from
4 some of the members of the Herrera family. His
5 ability to traffic drugs in the prison I'm not as
6 familiar with. And he doesn't have a reputation as
7 being very accomplished at that, as opposed to on the
8 streets, he was a little better known for that.

9 Q. So he's got a rep on the streets, not so
10 much in the prison. But if I understand it, you are
11 not completely aware of his trafficking abilities or
12 lack thereof within the prison?

13 A. Fair to say, yes.

14 Q. Or ability to get drugs into the prison?

15 A. Correct.

16 THE COURT: Mr. Villa, would this be a good
17 time for us to take our morning break?

18 MR. VILLA: Yes, Your Honor.

19 THE COURT: All right. We'll be in recess
20 for about 15 minutes.

21 (The Court stood in recess.)

22 THE COURT: Let's begin to take our seats.
23 It looks like everybody has an attorney.

24 All right. We'll go back on the record.

25 All right. Mr. Acee, I'll remind you you're still

1 under oath. Mr. Villa, if you wish to continue your
2 cross-examination of Mr. Acee, you may do so at this
3 time.

4 MR. VILLA: Thank you, Your Honor.

5 THE COURT: Mr. Villa.

6 BY MR. VILLA:

7 Q. Agent Acee, I think we left off talking
8 about Mr. Cordova's reputation for his drug
9 trafficking exploits inside and outside prison. Does
10 that sound about right?

11 A. Yes, sir.

12 Q. You did find out when you interviewed him
13 January 7th that he knew how to smuggle stuff into
14 the prison; correct?

15 A. I assume he -- I assume he does.

16 Q. Well, I'm not asking if you assume it. He
17 told you he could smuggle things into the prison,
18 didn't he?

19 A. I don't know if he did.

20 Q. So let me show you that same -- 1023 is
21 what you call it?

22 A. Yes, sir.

23 Q. This is Bates 2910. The second paragraph
24 here, where it says, "Beginning in 2005, CHS
25 regularly purchased crack cocaine from Chris Garcia,

1 and smuggled it, along with phones and money, via an
2 unknown correctional officer to fellow SNM members."

3 Right?

4 A. Yes, sir.

5 Q. And he told you that during that meeting?

6 A. Yes.

7 Q. You knew he had been in prison before,
8 right?

9 A. Yes.

10 Q. That's how he became an SNM member?

11 A. Yes.

12 Q. He told you during this meeting what his
13 role, if you will, is in SNM?

14 A. Yes.

15 Q. He said he was an enforcer?

16 A. Correct.

17 Q. What's an enforcer?

18 A. He described it as somebody that put in a
19 lot of work, or was a soldier and did the missions
20 that the other SNM members tasked him with.

21 Q. And when you hear the term "putting in a
22 lot of work," based on your investigation, what does
23 that mean to you?

24 A. It can mean a few things. It means that
25 he's assaulting people when it needs to happen; he's

1 representing the S in correctional facilities, even
2 if outnumbered. He's bringing in dope, if that's his
3 thing. His thing might just be knocking people out
4 or stabbing people.

5 Q. When he says he's a soldier, he does
6 missions, what does that mean to you?

7 A. He takes care of business. He assaults,
8 stabs, shoots rivals, informants, things along those
9 lines.

10 Q. And you understood that to be the case when
11 you tasked Agent Neale to start compiling overt acts
12 against Mr. Cordova, didn't you?

13 A. Yes.

14 Q. Including -- some of those overt acts in
15 1613 were alleged murders, right?

16 A. On Mr. Cordova, at least one murder. I
17 felt that his most recent -- that manslaughter, I
18 thought we could make a case for that being an overt
19 act.

20 Q. What about the alleged murder of Sammy
21 Chavez?

22 A. That one is a little trickier.

23 Q. You had information, at least from some
24 sources, that Mr. Cordova shot Sammy Chavez in the
25 back, along with Sergio Rodriguez; correct?

1 A. I do recall seeing that information. To
2 answer your question whether I would have used that
3 as an overt act or not, I would have had to look at
4 what evidence we had. We certainly were reviewing
5 it.

6 Q. It was on your radar?

7 A. Yes.

8 Q. And Sergio Rodriguez has, in fact, been
9 indicted in 1613. And one of the overt acts against
10 him is the murder of Sammy Chavez?

11 A. I believe you're right. He definitely has
12 been indicted, and I think that is one of the overt
13 acts.

14 Q. And Mr. Cordova, because you stopped
15 compiling overt acts, stopped investigating him as a
16 target, and turned him in an informant, has not been
17 charged with those crimes?

18 A. He has not.

19 Q. Has he been charged with any crime in
20 connection with your investigation of the SNM that
21 you know about?

22 A. No.

23 Q. You said he stopped becoming operational in
24 April of 2016, because he'd been burned by the
25 superseding indictment, right?

1 A. Yes. I mean, that was a decision I made
2 that I didn't want him to be operational any longer.

3 Q. You didn't use him anymore after that
4 period of time?

5 A. Not for active or proactive operational
6 stuff. I mean, he may have continued to help us with
7 historical context, but not operational.

8 Q. Providing information about the SNM or
9 individuals in the SNM?

10 A. Yes.

11 Q. Is that still ongoing?

12 A. People providing information about the SNM?

13 Q. Mr. Cordova.

14 A. No, I closed him.

15 Q. When did you close him?

16 A. I closed him in January of 2017, I believe.

17 Q. Did you continue to pay him through January
18 2017, or is he still being paid?

19 A. He is not still being paid. His payments
20 would have ceased when we closed him.

21 Q. Do you know if that was when the last
22 payment was made, in January of 2017?

23 A. That would have been the last, or it may
24 have been in December. I'd have to look through his
25 file. But what I can represent to you is that no

1 payments were made after he was closed.

2 Q. Close in time to January, December?

3 A. He may have received a payment then, yes.

4 Q. And were all his payments via the same
5 method, through his commissary account, under the
6 guise that it came from family? Was he paid in any
7 other way?

8 A. Yes. Sometimes cooperators, particularly
9 when they're incarcerated, they have a concern for
10 their family, if they've got kids. I think Mr.
11 Cordova asked us to give his money to his wife once
12 or twice so that she could buy some school clothes.
13 He has a couple young daughters. And we'll do that.
14 It's his money, wherever he wants it to go is fine
15 with us. And so I can remember meeting his wife, I
16 think, once. And I may have sent agents to meet her
17 one other time.

18 Q. That being Crystal Salas?

19 A. I don't recall her name.

20 Q. Do you recall the first name?

21 A. I think it was Crystal.

22 Q. Is that the same Crystal Salas against whom
23 he's -- well, maybe that's not the right question.
24 You are aware that he was convicted in 2010 of
25 aggravated assault against a household member?

1 A. I'm aware of that.

2 Q. And that was the against his wife, the same
3 one that you all paid?

4 A. Yes.

5 Q. He was convicted in that because he broke
6 her jaw?

7 A. I don't remember what the injuries were.
8 But that incident was also -- we were going to
9 include as overt acts, because we thought it was gang
10 related.

11 Q. Because you had information that Gerald
12 Archuleta, or "Styx," had told Mr. Cordova to do that
13 because he believed she had been fraternizing with
14 another SNM member.

15 A. Correct. I'm not sure what exactly
16 Archuleta's representations were, but that wouldn't
17 surprise me. And I do know that he talked to
18 Archuleta. And you're accurate to say that it was
19 over her relationship with another SNM member.

20 Q. Be that as it may, they were still married
21 at the time of Mr. Cordova's cooperation, and you or
22 another agent paid her some of the money that was due
23 to him?

24 A. Correct.

25 Q. At his instruction?

1 A. Yes.

2 Q. Did you speak to him at all about other
3 things related to being an informant, such as witness
4 protection, relocation, that kind of thing?

5 A. I think we had that conversation. I
6 usually do with cooperators, in discussing with the
7 options are. I know in his case, he was interested
8 in tattoo removal. And in my experience, that's a
9 lot easier to do in the feds. And I wanted to charge
10 Mr. Cordova. I wanted to charge him. However, once
11 he got an attorney, the trajectory of that changed,
12 so -- it changed.

13 Q. So he never got tattoo removal on the FBI's
14 dime?

15 A. Correct.

16 Q. Or is there some understanding that you're
17 aware of that he's going to be placed in, say,
18 witness protection?

19 A. Not at this point. That may -- and I have
20 to -- I am not ultimately the one responsible for
21 that. My colleagues at the U.S. Attorney's Office
22 have a big part of that, and other parts of the FBI.

23 Q. So what I want to focus on is the
24 communications that you had with Mr. Cordova about
25 that. You did discuss those things with him

1 generally?

2 A. I did. And as I recall, he wasn't very
3 interested in that.

4 Q. Now, you testified about this, I think, on
5 direct, but -- maybe it was on cross -- that he got
6 an attorney after a target letter was issued; true?

7 A. Correct.

8 Q. That was a target letter issued by the
9 United States Attorney's Office?

10 A. Yes.

11 Q. For what charge?

12 A. I think Racketeer Influenced and Corrupt
13 Organizations Act conspiracy. I think it was RICO
14 conspiracy. It may have been a drug conspiracy. I'm
15 not sure.

16 Q. When was that target letter issued?

17 A. Early 2016. Well, I take that back. It
18 was issued when I was pushing to charge him
19 federally, so it would have been -- to give you a
20 date range, sometime between January, and I would say
21 May of 2016. And I have copies of that in his files.
22 So I could get you an exact date. I just don't have
23 it today.

24 Q. So you can't say whether it was before the
25 recordings of Mr. Perez?

1 A. I actually took some notes on Mr. Cordova.
2 I may have noted it in there. If I could take a look
3 at those?

4 Q. You may.

5 A. Okay. March of 2016 is when the target
6 letter was issued.

7 Q. And are those the same notes you referred
8 to during your direct examination about the
9 admonishments Mr. Cordova was given?

10 A. No, that was a different note.

11 Q. So --

12 A. Would you like me to produce that?

13 MR. VILLA: Well, I'm going to ask the
14 Court, Your Honor, if we can review the notes that he
15 just reviewed, as well as the notes that he reviewed
16 during his direct?

17 MR. BECK: No objection to that.

18 THE COURT: You want to do it now?

19 MR. VILLA: I might have some of my
20 colleagues help me out, if that's okay with the
21 Court.

22 A. So this is Mr. Cordova. I highlighted it
23 so I could find it quickly. And then this is CHS
24 policy notes.

25 Q. So you were pushing to prosecute Mr.

1 Cordova federally, either stand-alone, or perhaps
2 bring him into one of these indictments?

3 A. Yes, sir, I wanted to charge him with RICO
4 conspiracy.

5 Q. And that was after he had agreed to
6 cooperate?

7 A. Yes.

8 Q. So the purpose of charging him would be to
9 have him enter into some sort of cooperation
10 agreement and be perhaps doing his prison time in the
11 federal system?

12 A. Correct.

13 Q. Because you thought that was safer place
14 for him?

15 A. No, I just wanted to charge him. I don't
16 know that it's safer. That's debatable.

17 Q. So you wanted to charge him because of the
18 crimes he'd committed?

19 A. Yes. And I thought it was in line with
20 some of his goals for programming and the tattoo
21 removal. And I urged -- I always urge these guys to
22 move out of state. They don't always want to. But
23 bringing him into the feds, obviously, gives us, as
24 FBI agents, a little bit more ability to help that
25 process, as opposed to staying in the state system,

1 where we don't have a lot of influence.

2 Q. And you communicated at least some of that
3 to Mr. Cordova, did you not; that if he was in the
4 federal system, he could get some of these benefits
5 like tattoo removal, or you might have a little more
6 influence over his location, if he wanted to move
7 out, those sorts of things?

8 A. Those sorts of things. I just described to
9 him what I'd seen in the past with other prison
10 gangs, what was possible. I mean, all these
11 cooperators will tell you I don't promise them
12 anything, and I make it known that I'm a lowly GS 13
13 agent. I don't make those kinds of decisions. But
14 that I can push for it.

15 Q. But he never was prosecuted federally?

16 A. He was not.

17 Q. Can you tell me why?

18 A. My understanding is, once he had counsel,
19 they didn't think, between he and his counsel, that
20 that was a good idea.

21 Q. So Mr. Cordova and his attorney
22 communicated to you that they didn't think it was a
23 good idea for him to be prosecuted?

24 A. No, they communicated that to the
25 prosecutors. I may have been part of that. I was

1 part of some of those conversations or emails.

2 Q. And he never was, in fact, prosecuted?

3 A. He was not.

4 Q. He got what he wanted?

5 A. I don't know. That's a question for him.

6 Q. Okay. Let's talk about Mr. Perez, your
7 understanding where he was at the time. I think you
8 testified around the time of this January meeting
9 with Mr. Cordova that you learned that Mr. Perez had
10 some sort of pending disciplinary action?

11 A. Yes, I believe it was Captain Sapien that
12 explained that to me.

13 Q. So what did Captain Sapien explain to you?

14 A. Well, in communicating to me what the
15 possibilities were, to have Cordova next to Perez, he
16 said that Perez had some -- because he was at another
17 facility. He wasn't at the North -- excuse me, he
18 wasn't at PNM. And I don't know where he was. What
19 was communicated to me is that he owed some time --
20 my words -- at PNM for some past disciplinary
21 problem. And so that because he owed that time, he
22 would be doing that time, and because Billy was a
23 cooperator -- excuse me, Mr. Cordova was a
24 cooperator, he had no disciplinary time coming, but
25 because he's a cooperator, we can throw him into

1 Level 6. So the idea was to put Perez where he was
2 due to be going and then have Cordova be there as
3 well.

4 Q. So Captain Sapien knew about that idea?

5 A. Oh, yes, he knew about it.

6 Q. And you didn't yourself independently
7 investigate where Mr. Perez was on January 2016?

8 A. No.

9 Q. You relied on what the NMCD and STIU folks
10 were telling you?

11 A. All I knew he was in state prison, but I
12 had no idea where.

13 Q. But it was your understanding from what
14 they told you that he was not in PNM?

15 A. Correct.

16 Q. And it was your understanding from what
17 they told you that he owed some period of time for
18 some disciplinary infraction so he could be put
19 there?

20 A. Yes.

21 Q. And all of the information that you had
22 about where Mr. Perez was, his disciplinary
23 situation, that all came verbally from the other
24 officers you were working with?

25 A. Correct.

1 Q. Nothing that you reviewed yourself or
2 documents that you looked at?

3 A. No, I didn't look at anything.

4 Q. But the idea, anyway, was to get
5 Mr. Cordova next to Mr. Perez, so that Mr. Cordova
6 could try to record conversations with Mr. Perez?

7 A. Yes, sir.

8 Q. Did you conduct any investigation into Mr.
9 Perez' medical state?

10 A. None at all, no.

11 Q. You knew at, least at the time you sent Mr.
12 Cordova in to be operational, the allegation was,
13 anyway, that a piece of metal came from Mr. Perez'
14 walker?

15 A. Yes, sir.

16 Q. So you understood at least that Mr. Perez
17 had to use a walker?

18 A. In 2014, he did. That's what I understood,
19 yes.

20 Q. And all that information you got from
21 various sources, but you didn't take any steps to
22 investigate that yourself?

23 A. No, I didn't investigate anybody's medical
24 conditions throughout this case ever at all.

25 Q. When, if you know, did Mr. Cordova get

1 placed next to Rudy Perez to conduct these recorded
2 interviews, if you will?

3 A. Can I look at my notes?

4 Q. Yeah. Do we still have them?

5 A. February 2016, he was placed next to Mr.
6 Perez. I don't have the exact date in February.

7 Q. And how come you don't have the exact
8 today?

9 A. Well, the simple answer is I relied on
10 corrections for that. I could obtain that date by
11 looking at their prisoner location manifest or list.
12 But my involvement with moving, like I'm not part of
13 the transcript. I'm not at the prison. I certainly
14 wasn't able to walk into any of those facilities and
15 go where I wanted to go. I didn't have keys to the
16 place, if you will.

17 Q. Were you ever shown the pod where Mr. Perez
18 was housed before Mr. Cordova got there?

19 A. No. I mean, since then, I've seen it
20 because it's an SNM pod, and we've done a number of
21 searches or shakedowns in there, and FBI agents have
22 participated in those. But at that time I had not
23 been in there.

24 Q. So you know now where the pod was that Mr.
25 Cordova recorded Mr. Perez?

1 A. I don't think I've been -- I think it was Q
2 pod in the North. I don't know that I've been in Q
3 pod, but I've walked by it.

4 Q. If you saw a diagram of it, would you
5 recognize it?

6 A. I might.

7 MR. VILLA: May I have a moment?

8 THE COURT: You may.

9 MR. VILLA: So I'm going to mark this, Your
10 Honor, as RP-B. May I approach?

11 THE COURT: You may.

12 Q. Agent Acee, I'm showing you what I've
13 marked for identification as RP-B. This is a
14 three-page document; true?

15 A. Yes, sir, it is.

16 Q. And the first page is PNM Level 5; correct?

17 A. Yes.

18 Q. Second page is PNM Level 6?

19 A. Yes.

20 Q. And it has on PNM Level 6 where Q pod is?

21 A. Yes.

22 Q. Then the third page is the layout of PNM
23 Level 6 that shows you where the recreation yard is;
24 is that true?

25 A. That is true.

1 Q. In looking at these, can you tell me if
2 they appear to be an accurate depiction of those
3 locations?

4 A. Yes, sir, they do.

5 MR. VILLA: Your Honor, I'd move to admit
6 RP-B.

7 THE COURT: Any objection?

8 MR. BECK: No objection, Your Honor.

9 THE COURT: Any objection from any of the
10 defendants? All right. Rudy Perez' Exhibit B will
11 be admitted into evidence.

12 Q. So let me show you the second page. That's
13 the same pod, Level 6 Q pod, which is in the bottom
14 left corner. That's the pod that you know where Mr.
15 Perez -- Mr. Cordova recorded Mr. Perez; correct?

16 A. Yes.

17 Q. And down on the bottom left-hand corner is
18 the cell where Mr. Perez was located?

19 A. I'll take your word for it. If it was, I
20 don't know it that well, to know the numbering.

21 Q. You don't know which cell Mr. Perez was in?

22 A. I don't.

23 Q. Or Mr. Cordova?

24 A. I just know they were next to each other.

25 Q. In the Q pod?

1 A. Yes, sir.

2 Q. There is an upstairs level and a downstairs
3 level?

4 A. Correct.

5 Q. Do you know that it was the downstairs
6 level?

7 A. I think that they may have been moved
8 around a little bit. But I do know that Cordova
9 talked through the vent to -- no, that's when he was
10 next to Herrera. So I think they were downstairs.

11 Q. And the cells downstairs, there are maybe
12 four or five on the downstairs level, and maybe four
13 or five on the top, maybe a little more?

14 A. Maybe a little more.

15 Q. But there is a cell at the end of each
16 level that only has one neighbor next to it, right?

17 A. Yes.

18 Q. Because if you're not in the middle, you
19 don't have neighbors on either side of you, you only
20 have a neighbor on one side?

21 A. Yes.

22 Q. Do you know that Mr. Perez, when Mr.
23 Cordova was placed next to him, was at the far corner
24 where the only neighbor he had was Mr. Cordova?

25 A. If you say that's how it was, I agree. I

1 haven't seen it. If Mr. Perez was in the corner,
2 then he would only have one neighbor.

3 Q. I don't want to testify. I'm just
4 wondering whether you know that?

5 A. I don't.

6 Q. How did you get Mr. Cordova the recording
7 devices that he used to record Mr. Perez?

8 A. I gave them to the STIU, and they would
9 deliver them to not only Cordova but any of the
10 cooperators there, usually via a ruse, where they
11 would shake their house down, they call it, search
12 their cell, and leave it in there for them.

13 Q. Did the individuals who provided the
14 recording device, those were the same individuals
15 that did the shakedown?

16 A. Yes.

17 Q. So they knew, for lack of a better word,
18 that the fix was in?

19 A. Those officers?

20 Q. Yes.

21 A. Yeah, to be clear, only those officers knew
22 there were devices in the facility. The regular
23 correctional officers didn't. And that was always a
24 concern because they could find it, and it could be
25 countered contraband.

1 Q. I'll talk to you about that in just a
2 minute. But these individuals that you gave the
3 recording device to would create the ruse like they
4 were doing a shakedown?

5 A. Correct.

6 Q. But it wasn't a necessarily a real
7 shakedown, like a housing officer might do on a
8 random basis?

9 A. Well, it just had the added bonus of
10 introducing an ELSUR device.

11 Q. So they would do the ruse as a shakedown,
12 introduce the ELSUR device, and they, of course, knew
13 at the time that Mr. Cordova was cooperating with
14 you?

15 A. Absolutely.

16 Q. And those individuals were Captain Sapien?

17 A. Yes, Sergeant Martin.

18 Q. Sergeant March?

19 A. And Officer Cupit.

20 Q. Officer Cupit?

21 A. Yes.

22 Q. And I think you testified that Mr. Myers
23 knew it as well?

24 A. Yes, but he wasn't -- I mean, he is an
25 administrator, so he wouldn't have been involved in

1 the shakedowns.

2 Q. So he didn't do the shakedowns, but he knew
3 what was going on?

4 A. Correct.

5 Q. And anybody else?

6 A. Well, I mean, there are other officers in
7 the STIU. They just weren't my points of contact.
8 There was probably one or two other officers, and
9 then their K-9 guys. I'm sure they had some
10 awareness because we always met at the STIU office,
11 and we would talk. But the specifics of the
12 operation, those were my points of contact. And who
13 they told from there, I'm not sure.

14 Q. But you had a conversation with Mr. Cordova
15 to make sure that hopefully if he had this ELSUR
16 device and got a shakedown, a -- real shakedown from
17 somebody who wasn't in the know -- that he could hide
18 it or prevent from it being discovered?

19 A. Yes, the STIU and Mr. Cordova had a more
20 in-depth conversation about that, the sort of ins and
21 outs of how to avoid that. And I think they talked
22 about what officers worked, because some of them were
23 more prone to do shakedowns than others. But, yeah,
24 that conversation happened.

25 Q. And you felt confident, or at least Mr.

1 Cordova told you that he felt confident he could do
2 it?

3 A. Yes.

4 Q. He could keep this device hidden from a
5 shakedown or from another officer that didn't know
6 about this?

7 A. He thought he could.

8 Q. How big is the device?

9 A. A couple inches by a couple inches.

10 Q. And it's plastic or metal or something like
11 that?

12 A. It's metal.

13 Q. You're familiar with the size of a Suboxone
14 strip?

15 A. Yes.

16 Q. Is it bigger or larger than a Suboxone
17 strip?

18 A. The recording devices are much larger, much
19 heavier, much thicker than a Suboxone strip.

20 Q. You were not present during any of these
21 shakedowns when the device was provided to Mr.
22 Cordova?

23 A. That's correct.

24 Q. Then you got the recordings back via the
25 same method?

1 A. Yes.

2 Q. So the ruse of a shakedown, they get the
3 ELSUR device back and they give it to you?

4 A. Essentially, I mean, they may have not had
5 to do a shakedown. Perhaps the informant had a
6 medical visit or some other sort of ruse, but it was
7 always by ruse.

8 Q. For Mr. Perez' recordings how many times
9 was Mr. Cordova provided the ELSUR device?

10 A. Well, based on my review of transcripts, I
11 think three different devices were used. And what
12 that would signify to me, we're switching off the
13 device because, again, we're concerned that the
14 battery is going to die. So in reviewing
15 transcripts, it looks like three different devices
16 were used.

17 Q. Over what time period?

18 A. Somewhere between two weeks and a month, in
19 February of 2016.

20 Q. Now, I know you prepared at least one
21 report concerning what Mr. Cordova learned from Mr.
22 Perez. But did you prepare a report each time you
23 got this device back?

24 A. No.

25 Q. Did you interview Mr. Cordova following

1 each time that you received the device back?

2 A. Definitely not.

3 Q. So you interviewed Mr. Cordova at least
4 once prior to introducing the device to him?

5 A. Yes, I think we probably met at least three
6 times before.

7 Q. Okay. And that's where you discussed with
8 him, as you testified on direct, to try to do the
9 preamble and hide the light and all those sorts of
10 things, right?

11 A. Yes.

12 Q. After receiving all the recordings back
13 from Mr. Cordova, you listened to them?

14 A. Not -- I eventually did. Not necessarily
15 right away, no.

16 Q. When do you think you first listened to
17 them?

18 A. I think I first assigned other agents to
19 listen to them, because they were splitting up
20 responsibilities. And so I didn't listen to them
21 until we were preparing for grand jury in April. So
22 I would have listened to them in late March.

23 Q. At any point in time, after receiving the
24 devices back from Mr. Cordova, did you interview them
25 again?

1 A. I think I did.

2 Q. When was that?

3 A. I met with most of the cooperators before
4 going to grand jury in April. So it would have been
5 in late March or early April.

6 Q. Do you know if Agent Neale reviewed the
7 recordings prior to that period of time when you did
8 and you were preparing for grand jury?

9 A. It would have been Agent Neale or Agent
10 Sainato.

11 Q. And Agent Neale prepared a report, did he
12 not, concerning some of the information Mr. Cordova
13 received from Mr. Perez?

14 A. I believe.

15 Q. And you saw that report?

16 A. Yes.

17 Q. Do you remember the report being dated
18 February 11, 2016?

19 A. I take your word for it.

20 Q. If I show it to you, will that refresh your
21 recollection?

22 A. Thank you.

23 MR. VILLA: May I approach?

24 THE COURT: You may.

25 Q. Agent Acee, is that Agent Neale's 1023

1 report?

2 A. Yes.

3 Q. Can you tell me the Bates numbers on the
4 two pages?

5 A. 3308, 3309.

6 Q. The report, if you want to look at the
7 second page, it discusses some information that Mr.
8 Cordova got from Mr. Perez?

9 A. Yes, sir.

10 Q. The report is dated February 11, 2016;
11 true?

12 A. The report is. The date of contact was the
13 9th, two days earlier.

14 Q. So the date of contact was February 9th.
15 Can you tell me what that means?

16 A. Yes, with all these reports, with these
17 Delta reports, these CHS reports, there is always
18 three dates. So there is the date of the actual
19 contact; there is the date the agent starts the
20 report, and then the third date is when the
21 supervisor gets around to actually approving it.

22 Q. Was this report prepared at the conclusion
23 of all the recordings that Mr. Cordova captured of
24 Mr. Perez?

25 A. I don't believe so.

1 Q. It was still ongoing?

2 A. Yes.

3 Q. So let's go back. We talked about -- you
4 said you met with Mr. Cordova at least three times
5 before he started the recording. Does that include
6 the first two times? One at MDC and the one at your
7 office?

8 A. Yes.

9 Q. So when was the third time?

10 A. I'm not sure. I usually do that just
11 before they're going to go operational, just to make
12 sure. Because some time goes by, and I want to make
13 sure they haven't changed their mind, they're
14 prepared, they have any questions of me.

15 Q. Were the same individuals present at least
16 at the third meeting that we know from your report
17 were at the second meeting?

18 A. Probably.

19 Q. And when you say "probably," there is a bit
20 of uncertainty?

21 A. No. I mean, without having a report in
22 front of me to say this is exactly who was there, I'm
23 just saying that probably, because most of these
24 debriefs were done with the same group of FBI agents
25 and the same group of Corrections officials.

1 Q. No question, at the third meeting there was
2 at least some, if not all of the group of
3 correctional figures?

4 A. Yes.

5 Q. In talking to Mr. Cordova to get him
6 prepared for this, did you talk to him about what
7 questions he should be asking Mr. Perez?

8 A. No. I told him what I wanted him to focus
9 on. But most of these guys are good at conversing
10 and talking, and they know what to say. It's kind of
11 an insult me telling them what to say or how to
12 strike up the conversation.

13 Q. You didn't give him a list of questions or
14 write something down for him?

15 A. I just said I wanted information on
16 murders.

17 Q. Murders, as opposed to drugs or baby mama
18 drama or whatever?

19 A. Exactly.

20 MR. VILLA: I think we're on C.

21 THE COURT: Yes, you have A and B.

22 MR. VILLA: May I approach?

23 THE COURT: You may.

24 Q. Agent, I want to show you what I've marked
25 as Mr. Perez' Exhibit C. You've seen that document

1 before?

2 A. Yes.

3 Q. This is the screenshot of -- I guess it's
4 the metadata or the files for the recordings of Mr.
5 Perez; true?

6 A. Yes.

7 Q. The same or substantially the same
8 condition as when you saw it before?

9 A. Yes.

10 MR. VILLA: Your Honor, I'd move to admit
11 Exhibit C.

12 THE COURT: Any objection?

13 MR. BECK: No objection, Your Honor.

14 THE COURT: Any objection from the
15 defendants? All right. Rudy Perez' Exhibit C will
16 be admitted into evidence.

17 Q. Agent, I'm going to show you Exhibit C
18 here. Now, this is a printout of the files that
19 contain the recordings that Mr. Cordova captured of
20 Rudy Perez, right?

21 A. Yes.

22 Q. And I know we've admitted -- or the
23 Government admitted six of the recordings. But this
24 actually lists a total of 11; true?

25 A. True.

1 Q. And some of them have very short periods of
2 time, so I assume that they didn't capture anything
3 of significance or that sort of thing?

4 A. I'd have to listen to them.

5 Q. Okay. Did you listen to them in
6 preparation for this hearing?

7 A. Yes.

8 Q. And of the six that have been introduced,
9 can you see others that perhaps do contain
10 information that you think is significant or should
11 be introduced?

12 A. I have some questions about maybe one. It
13 seems to me there might be seven that are pertinent.
14 But I acknowledge that six were introduced.

15 Q. Other than these 11, are you aware of any
16 other recordings that Mr. Cordova captured of Mr.
17 Perez?

18 A. Yes.

19 Q. And what are those recordings?

20 A. Well, this is -- 1168 is the serial number,
21 1168. I think there were recordings captured on
22 serial number 0730, and another device. And I have
23 those on the table back there, if you want me to get
24 them and tell you what the third one was.

25 Q. Perhaps we can get that up to you so you

1 don't have to come down.

2 But the exhibits that were introduced by
3 Mr. Beck, are they all represented here on RP-C, or
4 did they come from different devices?

5 A. No, they were -- the ones that he
6 introduced today?

7 Q. Yeah.

8 A. No, they were 1168. They were these.

9 Q. They were all 1168?

10 A. Yes.

11 Q. And 1168 denotes the device that was used?

12 A. Correct; that's the serial number, so, yes.

13 MR. VILLA: Your Honor, could Mr. Beck
14 provide that information to refresh Agent Acee's
15 recollection?

16 THE COURT: He may.

17 A. Mr. Villa, it looks like they were all
18 1168. I think I got confused with Mr. Baca's
19 recordings, which I also had here. Sorry about that.

20 Q. That's all right. I appreciate it. So
21 you're fairly sure, after reviewing your file, that
22 1168 was the only device that recorded Mr. Perez;
23 correct?

24 A. I'm hesitating because I thought we
25 switched the device. But as I sit here, that must

1 have been the only device we used.

2 Q. Now, we heard testimony yesterday about why
3 the dates that are depicted here on this metadata,
4 Exhibit C, may not be accurate. But let me ask you
5 this: Was there an ELSUR technician or somebody
6 besides yourself that prepared this device before it
7 was given to Mr. Cordova?

8 A. Yes. And to be clear, I don't have the
9 equipment, the training, or the ability to do
10 anything with the device other than check them out,
11 transport it, and vice versa.

12 Q. So you got the device from a tech in the
13 Albuquerque field office?

14 A. Yes. We get the devices from the TTAs, the
15 technically trained agents, special agents that
16 specialize in this. Generally, how it works is we
17 put in a request. We explain what the environment is
18 like and what our objectives are. They say: Here's
19 your choices. And sometimes we don't have a choice.
20 And we take that device and we bring it back, we're
21 turning it in to a different individual, and that's
22 the ELSUR technician that actually downloads it.

23 Q. Did either of those individuals inform you
24 whether the dates on the device were accurate?

25 A. Not that I recall.

1 Q. Did you have a conversation with either one
2 of them about whether the dates had been set to be
3 accurate for, you know, Mountain Time and the current
4 date, and that sort of thing?

5 A. No.

6 Q. So is it just the case, then, that you
7 don't know for certain if the dates of these
8 recordings are accurate?

9 A. I learned a lot about that this week. And
10 I presume they are. But based on what I've heard
11 this week, I'm not sure.

12 Q. So the dates run from February 1st through
13 February 4, 2016?

14 A. They do.

15 Q. And that is at least close in time to when
16 this operation was occurring?

17 A. Yes, sir, it was.

18 Q. But you can't say precisely what the date
19 is?

20 A. Now, I have my own doubts. Based on what
21 I've heard this week, I'd want to compare this to the
22 prison records of what cells those two gentlemen were
23 in.

24 Q. What about the time -- it has a time of
25 each recording -- do you have any reason to believe

1 the times are incorrect?

2 A. I don't. But if you told me they were or
3 we found some other document that showed they were, I
4 guess I wouldn't be surprised, no.

5 Q. In each of the transcripts -- so, for
6 instance, 33A, it has listed on there the date of the
7 recording. And it's February/XX/2016, right?

8 A. Yes, sir.

9 Q. Because you're not able to accurately
10 determine what day these were taken?

11 A. Correct.

12 Q. Now, with respect to Mr. Cordova, while
13 this operation, if you will -- and when I say
14 "operation," I'm talking about recording Mr. Perez,
15 and I guess we can include Mr. Herrera -- were you
16 monitoring his prison phone calls?

17 A. I personally was -- Cordova's or the other
18 guy's?

19 Q. Mr. Cordova's.

20 A. No.

21 Q. Were you monitoring who was coming to
22 visit?

23 A. No. And to be clear, I don't have that
24 information at my fingertips. I'd have to get that
25 from the STIU.

1 Q. Did you ask the STIU, during the period of
2 time Mr. Cordova was operational, to listen to his
3 phone calls?

4 A. No.

5 Q. Did you ask them to tell you or keep track
6 for themselves who is coming to visit him?

7 A. No. I mean, they do keep track of that,
8 but I didn't tell them to, no.

9 Q. Same question with respect to mail. Did
10 you ask them to look into his mail to see who he was
11 receiving mail from?

12 A. No.

13 Q. Did Billy Cordova ever talk to you on the
14 phone from the prison?

15 A. During that time?

16 Q. During the time he was operational. I
17 guess from January the time, through, I think you
18 said you closed him was around January 17?

19 A. I don't think so. I mean, these -- most of
20 the guys, I tell them: Don't call me. But they
21 still do. I don't think so.

22 Q. Did he have your number?

23 A. Would he have had my number?

24 Q. Yes.

25 A. Probably. I think his wife would have had

1 my number, yes. That's usually how the
2 communications go.

3 Q. Did she call you during this time period?

4 A. No. She would send texts once in a while.
5 I don't know if it was during this time period or
6 after, though.

7 Q. Was Mr. Cordova given urinalysis during the
8 time he was operational?

9 A. I don't know.

10 Q. Did you ask STIU or anybody from NMCD to
11 give him drug tests?

12 A. No.

13 Q. Do you know if his pod -- or excuse me, his
14 cell, was shaken down -- shaken down -- we need a
15 grammar professor -- during the time he was
16 operational, not when it was a ruse -- to give him
17 the ELSUR device?

18 A. I only know when STIU did it. I don't know
19 when the regular COs assigned to that pod would have
20 done it. I don't have any information on that.

21 Q. Did you ever learn that he was found to
22 have contraband, drugs, anything like that, on him?

23 A. Not when he was operational. I'm sure in
24 his past he did.

25 Q. All right. But you didn't instruct anybody

1 to say: Shake him down, check on him, make sure he's
2 doing what he's supposed to be doing?

3 A. No.

4 Q. You then listened to these recordings of
5 Mr. Perez recently, and one of the things you said
6 you were listening for was if it sounded like he was
7 intoxicated, right?

8 A. Yes, sir.

9 Q. And as you listen to it, I think you said
10 you relied on some of your training when you were a
11 police officer?

12 A. Yes, sir.

13 Q. So I'll dive into that in a second, but let
14 me ask you this: Have you ever listened to a
15 recording of Mr. Perez when he was known to be under
16 the influence of any drug?

17 A. No.

18 Q. When you were a police officer -- was it
19 California State Police?

20 A. Yes, sir.

21 Q. When did you become an officer there?

22 A. I started out in the sheriff's department
23 in '97; went to CHP in 2000.

24 Q. I'm sorry?

25 A. 2000.

1 Q. CHP, California Highway Patrol?

2 A. Yes, sir.

3 Q. When did you get the 40-hour training that
4 you described on direct examination?

5 A. I was trying to remember that. It was
6 early in my career. I think it was -- the 40-hour I
7 had to do first, and I think that was in 2001. And
8 then the more advanced training was in 2002.

9 Q. That being the drug recognition training?

10 A. Yes, sir.

11 Q. Can you tell me when Suboxone was invented?

12 A. No.

13 Q. Can you tell me when the FDA approved it?

14 A. I recently read that, but I don't recall
15 the date.

16 Q. Were you trained during this drug
17 recognition, 80-hour course that you did, about
18 Suboxone?

19 A. No.

20 Q. Were you trained in how to identify if
21 somebody is under the influence of Suboxone?

22 A. No.

23 Q. So the DRE training -- that's Drug
24 Recognition Evaluation for short -- it's not just
25 about any one drug, right? It's about a number of

1 drugs you can detect?

2 A. Yes, sir. The focus is more on trying to
3 make a determination. And I will say that's a
4 determination to the level of what I'll call probable
5 cause. Not a medical conclusion. It's just enough
6 probable cause, as an officer, I would feel
7 comfortable making that arrest. And that focus was
8 primarily on stimulants and depressants, and then
9 alcohol.

10 Q. And part of the training is you're
11 physically being able to see the suspect and observe
12 them; correct?

13 A. Yes. We did our evaluations in the Skid
14 Row area of Los Angeles, the downtown area, between
15 like 3rd and 6th Street. So we would actually do
16 evaluations on live subjects that we suspected that
17 were under the influence.

18 Q. You're trained, things to look for when
19 you're looking at a suspect, right?

20 A. Yes.

21 Q. You look at their eyes?

22 A. Yes, sir.

23 Q. See if they're bloodshot, or pupils have
24 dilation or restriction?

25 A. Yes, sir.

1 Q. Look at their skin?

2 A. Yes.

3 Q. I think part of it -- I don't know if it
4 did back then, but did it include like taking some
5 vital signs, pulse, things like that?

6 A. It did.

7 Q. Looking for other signs of drug use, like
8 needle tracks, or white powder around the nose, those
9 sorts of things?

10 A. Yes, sir.

11 Q. And also included -- I guess they're called
12 field sobriety tests?

13 A. Yes.

14 Q. People are doing different tasks:
15 Standing, walking, touching their fingers to their
16 nose, all that sort of stuff?

17 A. Correct.

18 Q. And you used all of that to try to reach a
19 conclusion about what someone might be under the
20 influence of?

21 A. Yes. To the point of either making a
22 determination for an arrest or not to arrest them.

23 Q. And with respect to Mr. Perez, the only
24 thing you did was listen to the recordings?

25 A. Yes, sir.

1 Q. You didn't look at anything else to try to
2 determine whether or not he was under the influence?

3 A. That's correct.

4 MR. VILLA: May I have a moment, Your
5 Honor?

6 THE COURT: You may.

7 Q. Agent Acee, you're aware that Mr. Cordova,
8 I think in January of 2017, or so, got in trouble at
9 PNM?

10 A. Yes, sir.

11 Q. He got in trouble for having sex in the
12 contact room?

13 A. Yes.

14 Q. Okay. What's the contact room, as far as
15 you understand it?

16 A. Well, I've watched the video. And I went
17 up and sort of investigated the circumstances. And
18 what it was, was a small room located in the North
19 facility. It had glass windows. There was a table
20 with a couple of chairs. And there was a camera in
21 there.

22 Q. And the PNM North facility is a Level 6
23 facility; true?

24 A. It is.

25 Q. And are you aware of what the New Mexico

1 Department of Corrections policies were at the time
2 for contact visits for inmates in Level 6?

3 A. No.

4 Q. Do you know whether Mr. Perez was given
5 some special permission on the contact visit for this
6 January period of time?

7 A. I did in my follow-up -- we'll call it
8 investigation, if you will, I learned more about
9 that.

10 Q. What did you learn?

11 A. I learned that the cooperators -- I'll call
12 it L pod -- that's where they were living, those that
13 were cooperating with the Government -- were housed
14 together. And they were given, I think, Level 4
15 privileges, although they were housed at the Level 6.
16 And I believe that those privileges include contact
17 visits, which I understand to be a visit with your
18 family. But things like, you know, physical
19 touching, beyond hugging your kids, is not permitted.

20 Q. So the inmates were in L pod, which is a
21 Level 6 facility, but given Level 4 privileges?

22 A. That's my understanding. I asked the same
23 kind of questions when I found out this happened, and
24 went up there and was trying to get to the bottom of
25 it. And that's what was explained to me.

1 Q. Whom did you ask?

2 A. Well, I had conversations with everyone
3 from the Secretary, on down to managers of the unit.

4 Q. And I think you called it the cooperator
5 pod, because all of the cooperators in this SNM case
6 were in that pod?

7 A. Not all of the cooperators. But all the
8 cooperators that were housed at PNM were in there,
9 yes.

10 Q. Did you ultimately learn how it was that
11 they were given Level 4 privileges, even though they
12 were in Level 6 pod?

13 A. Yes. What was explained to me is that they
14 got the same privileges that an inmate leaving the
15 gang, or renouncing the gang, would get if they
16 stepped down and went to RPP. These guys were
17 prevented from going to RPP because they were there
18 on CJ holds, on marshals -- federal holds. And so
19 they were afforded those privileges, even though they
20 couldn't transfer out of the facility because of the
21 case.

22 Q. And I won't get too far into this, but Mr.
23 Cordova wasn't the only one that was violating the
24 contact rule of doing more than just hugging or
25 kissing their family?

1 A. No. I believe there were four.

2 Q. Okay. With respect to Mr. Cordova, did he
3 get any sort of discipline or issue related to his
4 having a sex in the contact room in violation of
5 policy?

6 A. Yes.

7 Q. What was that?

8 A. I closed him. The Department of
9 Corrections threw him in the hole for six months, or
10 maybe longer, I'm not sure. My communications with
11 him stopped at that point in time. And the State
12 referred he and his wife to the CYFD.

13 Q. Has he been prosecuted?

14 A. Oh, and the case was referred to the State
15 Police, but I don't believe any of the men were
16 prosecuted.

17 Q. So you closed him in that period of time?

18 A. I did.

19 Q. Is that what caused you to close him?

20 A. Yes.

21 Q. And you haven't used him since then?

22 A. I haven't even talked to him since then, up
23 until yesterday.

24 Q. You spoke to him yesterday?

25 A. Yes, sir.

1 Q. What did you speak about?

2 A. I greeted him. He was transported here
3 from Clayton. So I oversaw the transfer of -- or
4 helped coordinate the transfer of Mr. Cordova from
5 the STIU up north, to the correctional staff out here
6 at Southern. And I asked him how he was doing. Told
7 him he needed to shave. Just small talk.

8 Q. When you closed him in January, did you
9 talk to him then?

10 A. Yes, I talked to everybody in the pod.

11 Q. And what did you tell Mr. Cordova?

12 A. I'd frame it as I was angry, I was
13 disappointed. And I told him he needed to take his
14 medicine. Whatever was coming was coming, and he
15 earned it. I told him not to be surprised if CYFD
16 got contacted. And I said some other angry things to
17 him.

18 Q. Like what?

19 A. I said it to all four of the guys who were
20 involved that I was disappointed; I didn't do things
21 to make them look bad or disrespect them. Respect
22 was a big thing for these guys, and guys in that
23 position. I felt that they had disrespected me.
24 Although I wasn't taking it personally, but they
25 disrespected the Bureau, the FBI. And they had some

1 rough days coming and they just needed to be men
2 about it and face their ass-whooping.

3 Q. Is one of the reasons that you canceled him
4 in that period of time is this action by him
5 demonstrated a lack of you're being able to trust
6 him?

7 A. Yes -- I mean, there had been other small
8 issues in the pod -- nothing that was criminal, but
9 just bickering, and bickering with staff, and I'd had
10 to go up there before. And I hated doing that. It
11 was like baby-sitting. It was like, Come on guys,
12 like, we can get through this. So this was, yeah,
13 the last straw. So I'd already given them some
14 admonishments about: Go along, get along. You know,
15 the COs don't like you guys -- you're big boys. Do I
16 have to keep coming up to talk to you kind of stuff.
17 So when this happened, this was a flagrant violation
18 of following the rules, which they have to do, or
19 they get closed.

20 Q. Because if they don't, you can't trust
21 them?

22 A. I can't control them. I mean, I can
23 understand why he did what he did, but he's got to
24 follow the directions that were given. And the
25 directions are: Don't cause problems, and follow the

1 institution's rules.

2 Q. One of the reasons you want to control them
3 is so that you can trust them, right?

4 A. Yes.

5 Q. And you can't trust Billy Cordova anymore?

6 A. I don't agree with that. I think, if he's
7 left alone in a room with his wife, he's going to
8 have sex with her if he can. That doesn't mean I
9 can't trust him.

10 MS. JACKS: Objection. He's misstating
11 evidence. He wasn't alone. He was with two minor
12 children.

13 THE COURT: Well, overruled. He can
14 testify. You can deal with it in cross.

15 Mr. Villa.

16 MR. VILLA: That's all the questions I
17 have. Thank you, Mr. Villa.

18 THE COURT: Ms. Jacks. You're kind of
19 eager to get a piece of him. Do you want him?

20 MS. JACKS: I do have some questions, Your
21 Honor, but I think Ms. Bhalla is going next.

22 THE COURT: All right. Ms. Bhalla.

23 EXAMINATION

24 BY MS. BHALLA:

25 Q. Good morning.

1 A. Good morning.

2 Q. Give me just a second to get organized
3 here.

4 Since we're on the topic of Mr. Cordova's
5 contact with his wife, I had a couple of questions
6 about that, if you don't mind.

7 You had indicated -- let me just make sure
8 I'm stating this correctly -- that they were given
9 privileges to be in Level 3 because of their
10 cooperation; is that correct?

11 A. Level 4 privileges.

12 Q. Level 4 privileges. And who did you speak
13 to about that so that they got those privileges?

14 A. No -- these are facts that I learned
15 afterward, when I went up there and tried to piece
16 together how this disaster happened.

17 Q. Okay. I'm not asking about who gave him
18 permission to have the contact visits -- that was a
19 little unclear -- what I'm asking you is: At some
20 point after these guys cooperated, you spoke to
21 someone about them cooperating, presumably STIU; is
22 that correct?

23 A. Yes.

24 Q. And they were moved because they were
25 cooperating; is that correct?

1 A. Yes.

2 Q. And they were moved to a level -- did you
3 say a Level 4 or a Level 5 facility?

4 A. No, they were in the Level 6, in L pod, at
5 the North.

6 Q. Okay. And when were they given -- at some
7 point, they were moved to Level 4?

8 A. No, they remained in Level 6. But the
9 restrictions, I'll call it, that they were under were
10 that of Level 4 privileges.

11 Q. Okay. I understand. So, even though they
12 were in Level 6, they were sort of given more
13 privileges, which would account for maybe Level 4
14 privileges?

15 A. That was my understanding.

16 Q. And that was because they were cooperating
17 with the Government; correct?

18 A. Yes. And they didn't renounce the gang.

19 Q. Okay. Who gave them those privileges?

20 A. I'm not sure.

21 Q. Okay. Did you speak to anybody about who
22 let them be on Level 4 status -- I'll call it interim
23 Level 4?

24 A. No, that was my question, too. But I had
25 to be diplomatic about it.

1 Q. Diplomatic about asking who gave the
2 authority for them to be in that classification?

3 A. Yes.

4 Q. Why is that?

5 A. At that point in time, it was difficult for
6 me to walk into the Department of Corrections and ask
7 their bosses what they were thinking or what they
8 were doing. I asked those questions, but just not as
9 pointedly as you're asking.

10 Q. So you don't know who made the decision to
11 allow them to be on interim Level 4 status?

12 A. I have an idea of the people that were
13 involved in that decision, but maybe not.

14 Q. Okay. Can you tell me who you think might
15 have been involved in that decision?

16 A. I think that it involved Deputy Secretary
17 Booker, Joe Booker; Mr. Roarke, who, at the time --
18 he's since been promoted -- but I think he was the
19 director of adult prisons.

20 Q. Do you think maybe that's why he wasn't
21 here last week?

22 A. I don't know. I guess there was some ice
23 somewhere or something.

24 Q. Okay. Who else was responsible for that
25 decision, that you know, our suspect?

1 A. I think the Warden would be -- I mean, my
2 understanding is you can't really -- you shouldn't do
3 anything in the facility without giving the warden a
4 courtesy part in that conversation. So I think those
5 three.

6 Q. And remind me, who was the warden at that
7 time?

8 A. German Franco.

9 Q. Okay. And do you know if Mr. Mares was
10 involved in that decision at all?

11 A. Say the name?

12 Q. Mr. Mares, am I saying that right?

13 A. Oh, Myers? Mark Myers?

14 Q. Yes. Thank you.

15 A. He probably would have been.

16 Q. He probably --

17 A. I mean, he's with us all the time. He
18 works out of our building. But he belongs to them
19 and I'm not always part of his conversations with his
20 colleagues there.

21 Q. Okay. What about Roland Mares? I think
22 that's who I was trying to ask about maybe.

23 A. I don't know him. I don't know if I've
24 ever met him.

25 Q. Okay, that's fine.

1 At the time that they were in Level 6, but
2 they were -- I'll just say classified as Level 4 --
3 was that what you referred to as the "cooperator
4 pod"?

5 A. Yes.

6 Q. Okay. Who was in the cooperator pod, that
7 you know about?

8 A. Billy Cordova, Frederico Munoz, Gerald
9 Archuleta, Javier Rubio, Benjamin Clark, Jerry
10 Armenta, Paul Rivera; Timothy Martinez, when he came
11 over; Eric Duran until he was released. And then, as
12 other defendants started to cooperate -- they may
13 have joined it later, but then, that would have
14 stopped in January of 2017, when these incidents we
15 became aware of, L pod dissolved, and people were
16 transferred out or transferred to other facilities.
17 And that was a decision between Marshal Service and
18 the Corrections Department.

19 Q. Okay. Can you give me -- and I know
20 everybody was coming in at different times, so I'm
21 not trying to pin you down to specifics here, but a
22 general timeframe of when the defendants that you
23 listed, or the cooperators that you listed, were in
24 the cooperation pod?

25 A. Oh, man.

1 MR. BECK: Your Honor, I'm going to object;
2 beyond the scope of direct, and irrelevant. This
3 doesn't relate to a motion to suppress.

4 MS. BHALLA: Your Honor, I think it's
5 relevant. Because one of the things that we're
6 trying to find out is what the Government and what
7 the informants knew about what was happening when
8 these guys were in the pods with -- next to Rudy
9 Perez and next to Carlos Herrera. If these guys were
10 all in the cooperator pods together, I'm curious
11 whether or not they were talking about that, whether
12 or not they were talking about drugs, what
13 conversations they had about drugs, and whether or
14 not they were conversing as a group about that
15 subject. So I'd like to link it in, if I can.

16 THE COURT: Well, this doesn't implicate
17 any -- this is all past history now, so there is not
18 any security --

19 MR. BECK: No.

20 THE COURT: -- interests here.

21 MR. BECK: No.

22 THE COURT: I think I'll give her a little
23 bit of leeway here and see if she ties it up.

24 Overruled.

25 Ms. Bhalla.

1 MS. BHALLA: Thank you.

2 Q. I think you see where I'm going with this
3 now. Can you tell me about what time frame they were
4 in there?

5 A. That's tough to do, for a number of
6 reasons. The marshals contract with PNM. They had
7 to increase the number of beds so the additional CJ
8 holds could go there.

9 I could try to sketch out maybe who the
10 initial L pod people were, and then who joined later.

11 Q. And I have a feeling we'll probably go into
12 lunch. So maybe what we can do is take that up after
13 lunch. If you get a chance to review that, I would
14 appreciate it. I do have a couple of other questions
15 about it while we're on the subject.

16 You mentioned in your previous testimony
17 that you would go in and talk to them as a group; is
18 that correct?

19 A. Correct.

20 Q. Okay. And so did you all share information
21 or what would you talk to them about when you went in
22 to talk to this group?

23 A. I feel a little better saying this, but it
24 was like a scolding.

25 Q. Every time?

1 A. Yes.

2 Q. Okay. So every time you went in there it
3 was because there was a problem?

4 A. That, or to sign receipts.

5 Q. Excuse me?

6 A. I went there at the request of the
7 Corrections Department sometimes, to help everybody
8 stay focused on the long-term goals here, and not to
9 get -- there was a lot of bickering.

10 Q. Do you know what the bickering was about?

11 A. Stupid stuff. Like personalities; the guys
12 didn't like each other.

13 Q. Did you say to sign receipts?

14 A. Yes. So, if payments were made, then we'd
15 go up and I'd have them sign receipts.

16 Q. Okay. And that would be to the informants,
17 payments made to the informants?

18 A. Yes.

19 Q. And when you went up there to sign the
20 receipts, did the other informants see that you were
21 signing receipts? Did they know that's why you were
22 coming?

23 A. They weren't dumb. They knew what we were
24 doing.

25 Q. Did they know how much money, or have an

1 idea about who was getting paid what?

2 A. Probably. I don't put anything past these
3 guys, but I didn't talk to them about it. And they
4 didn't complain to me, like, Hey, this guy is getting
5 more or something. So I don't know what they talked
6 about.

7 Q. So you don't think that might have been a
8 source of the bickering?

9 A. No. The bickering was sometimes childish
10 stuff, that I didn't expect to be doing.

11 Q. I want to move back into the payments. You
12 talked to Mr. Villa about paying Mr. Cordova \$600, is
13 that correct -- or putting it on his books; is that
14 fair to say?

15 A. That was his number. That sounds about
16 right.

17 Q. Okay. You mentioned that -- in your notes,
18 and I was going to ask you about that -- let me just
19 locate that real quickly. And you may want to look
20 at your notes, just because I'm going to ask you
21 about them. On your expenses for Billy Cordova you
22 noted "Reimburse for reasonable cost in support of
23 FBI investigation." Do you recall that note?

24 A. Yes. That's a different note. So what I
25 did is I have notes on CHS policy.

1 Q. Right.

2 A. Because I anticipated being asked about
3 that. Then I have notes on Cordova's timeline.

4 Q. Okay. So that was on Mr. Cordova's
5 timeline; is that fair to say?

6 A. No. I think where I'm talking about
7 payments --

8 Q. Correct.

9 A. -- and expenses. I wasn't able to bring in
10 our policy manual on CHSs, because it's a secret.
11 The overall classification is secret. That being
12 said, the portions that deal with criminal informants
13 is all unclassified. But I can't bring the document
14 in, so I got approval to take some notes.

15 Q. That's fine. And all I'm asking is -- I'm
16 not asking about the how you arrived at those notes.
17 I'll probably ask you that in a minute. But one of
18 your notes on those -- on that piece of paper says
19 "reimburse for reasonable costs in support of FBI
20 investigation"?

21 A. Yes.

22 Q. What does that mean? What is that about?

23 A. So there is two kinds of payments we can
24 make. We can make a payment for services rendered or
25 for expenses.

1 Q. Okay.

2 A. That is the definition of what would fall
3 under expense.

4 Q. So the payment for services rendered would
5 also be considered an expense; is that correct?

6 A. No. I'm sorry, I'm probably not doing a
7 good job of explaining this.

8 So there is two ways I can request money to
9 pay an informant for their services, which I would
10 describe as: Here's your reward, if you will, or
11 here's your payment for helping.

12 Q. Which would be the money you put on his
13 books?

14 A. Correct.

15 Q. Okay.

16 A. Expenses are -- I can't think of, in a
17 prison scenario where that might come up. But say on
18 the street, if I'm asking a source to drive
19 somewhere, and they get a flat tire, or I can put
20 fuel in the vehicle, and I can repair the car.

21 Q. I understand that. So were there any
22 expenses related to Mr. Cordova's cooperation?

23 A. Not that can I think of.

24 Q. Okay. So that note doesn't indicate that
25 you were getting reimbursed for expenses paid on Mr.

1 Cordova?

2 A. No. And I take that back, if I purchased
3 an informant lunch, like if I ever bought Mr. Cordova
4 lunch, I would -- that would fall under expenses.

5 Q. So you don't recall what your expenses were
6 with Mr. Cordova?

7 A. I don't think I had any. If I did -- I'm
8 trying to remember what it could have been -- it
9 might have been maybe a meal. That's the only thing
10 I could think of.

11 Q. Okay. What documents did you review to
12 generate the notes that you brought today?

13 A. Well, for the CHS policy, I looked through
14 the guide, which is that secret guide; got approval
15 to make these notes.

16 For Mr. Cordova, I opened up -- well, his
17 informant file is closed, so I had to have the closed
18 file electronically sent to me. I went through it
19 and noted dates I thought I might be asked about.

20 Q. Can you talk about what information is in
21 Mr. Cordova's file?

22 A. Sure.

23 Q. Okay. Can you tell us what's in Mr.
24 Cordova's file?

25 A. Any report that we generated as a result of

1 him debriefing with us. I'll start at the beginning.
2 It's going to have his photo, his criminal history,
3 what we call an opening document, which is the agent
4 that opened him; in this case, me. Why I was opening
5 him.

6 Q. And this would have been in January?

7 A. Yes.

8 Q. Of 2015?

9 A. '16.

10 Q. Okay.

11 A. Any payment information would be in there,
12 copies of receipts, the admonishments, which I think
13 sometimes may have been referred to as contracts, but
14 they're actually just admonishments. They're the
15 rules that we're telling the person. It will note
16 which rules we told on what date, and who witnessed
17 it.

18 Q. Okay.

19 A. That's all I can think of in a criminal
20 matter. I mean, when you get into national security
21 stuff, there is other stuff. But in these cases,
22 that's the bulk of what's going to be in that file.

23 Q. So there wouldn't be anything in that file
24 that would implicate national security interests?

25 A. Absolutely not, no.

1 Q. And Mr. Cordova's cover has already been
2 blown so to speak; is that correct?

3 A. Correct.

4 Q. Would you have any objection to turning
5 over that file?

6 A. I don't. I don't object to any of this
7 stuff. I just have to check with the Bureau. And I
8 think it would be turned over.

9 Q. Okay. Thank you for that.

10 You talked a little bit about the
11 instructions that you gave, or the admonitions that
12 you gave to Mr. Cordova. Did you ever instruct him
13 not to bring drugs into the facility or to use drugs
14 during the course of this operation?

15 A. Not specifically. He was advised, you
16 know, to follow all the rules, and not break any
17 laws. But not specifically.

18 Q. Okay. And I think Mr. Villa asked you a
19 little bit about this. Did you request -- I know
20 that you couldn't go in and search any of the cells,
21 but did you request STIU to check the cells
22 periodically?

23 A. No.

24 Q. During the time that the recording device
25 was in there?

1 A. No.

2 Q. You talked a little bit -- and I think Mr.
3 Villa asked you a little bit about your DRE or DUI
4 experience in recognizing signs of impairment; is
5 that correct?

6 A. Yes.

7 Q. Okay. Would it be fair to say that part of
8 what you're looking for when you're doing a DRE
9 investigation is whether or not a suspect is able to
10 respond to the questions that you ask?

11 A. Yes.

12 Q. Would it matter to you if someone was
13 unable to answer a question, if they weren't able to
14 understand their response to your question?

15 A. That would matter, yes.

16 Q. Would it matter if they stuttered?

17 A. Yes.

18 Q. Okay. I want to take you to a transcript
19 that I believe you talked to Mr. Maynard about a
20 little bit last week. And it starts with Bates No.
21 20839. And I'm going to hand you a copy of that
22 transcript, if that's all right with the Court.

23 THE COURT: You may.

24 Q. I want you to just take a couple of
25 seconds, and let me know when you're ready to discuss

1 that transcript.

2 A. I read this this morning, ma'am.

3 Q. Okay, good. Do you recognize that as being
4 a transcript between Carlos Herrera and Billy
5 Cordova?

6 A. Yes.

7 Q. And this was during the time that Billy
8 Cordova was next to Mr. Herrera?

9 A. Yes.

10 Q. Is this the transcript that you discussed
11 with Mr. Maynard last week?

12 A. Yes.

13 Q. And you were providing some context on --
14 for us on why you felt that some of these statements
15 were inculpatory?

16 A. Yes.

17 Q. I would like you to look at the first real
18 page of the transcript, meaning where the
19 conversations begin. The top of the page says, "Hey
20 carnal." Do you see that?

21 A. Yes.

22 Q. Do you see Mr. Herrera's response on the
23 second block -- I'll call it a block -- does that
24 make sense to you?

25 A. I do see it.

1 Q. Okay. How many lines are in that block?

2 A. Five.

3 Q. Okay. I'm going to say four-and-a-half,
4 but I'll let you go with five. How many
5 unintelligibles -- how many unintelligible words are
6 in those five lines?

7 A. Eight.

8 Q. Okay. And I want to take you to the
9 bottom, several pages later, of 20847, Bates No.
10 20847. Do you mind taking a look at that?

11 A. Okay.

12 Q. If you will please look at the third block
13 from the bottom, where it starts out, "Unintelligible
14 carnal." Do you see that?

15 A. Yes.

16 Q. Would you agree with me that there are 12
17 lines of text in that conversation block?

18 A. Yes.

19 Q. And in those 12 lines, there are 23
20 unintelligible words?

21 A. Yes.

22 Q. And one stutter?

23 A. Yes.

24 Q. I'm going to take you back to page -- the
25 first real page -- which is Bates No. 20840, if you

1 don't mind.

2 A. Okay.

3 Q. And this is a conversation going back and
4 forth between Mr. Herrera and Mr. Cordova; correct?

5 A. Yes.

6 Q. So some of these blocks belong to Mr.
7 Cordova?

8 A. Yes.

9 Q. Blocks of text.

10 Do you have any reason to disagree with me
11 that there are 21 unintelligible words from Mr.
12 Herrera on that single page of this transcript?

13 A. I don't have any reason to disagree with
14 you.

15 Q. And if you flip through the transcript, do
16 you have any reason to disagree with me that almost
17 every single page is like this?

18 A. I agree.

19 MS. BHALLA: Your Honor, I would like to go
20 ahead and move this exhibit into evidence. I think
21 that the way we would do it is CH-A; is that correct?

22 THE COURT: I think that's correct.

23 MS. BHALLA: Okay. And if I may take the
24 document from Agent Acee.

25 I'm going to move that into admission.

1 THE COURT: Any objection?

2 MR. BECK: No objection, Your Honor. I
3 don't know if Ms. Bhalla intends to move the
4 recording in. But, if not, then we will probably get
5 the recording entered in later. There is no
6 objection to the transcript.

7 THE COURT: All right. Any other objection
8 or comment? All right. Then Carlos Herrera's
9 Exhibit A will be admitted into evidence.

10 Q. I'm going to shift gears a little bit. I'm
11 sorry, there is a lot to cover.

12 You mentioned when you first started your
13 testimony this morning that you were surprised when
14 Mr. Cordova told you that Mr. Herrera may be
15 involved; is that correct, when you got that
16 information from Mr. Cordova?

17 A. Did I say that word?

18 Q. I wrote it down. I'd like to think I wrote
19 it down correctly.

20 A. I like to think nothing surprises me.
21 Perhaps I said that.

22 Q. Would it be fair to say that you didn't
23 have that information previously?

24 A. Absolutely.

25 Q. So this was the first time that you heard

1 that Mr. Herrera may have been involved?

2 A. I might have read it in some of the old
3 stuff, but it was the first time I recall someone, a
4 live witness, if you will, or another SNM member
5 telling me.

6 Q. So would it be fair to say it was the first
7 sort of tangible grasp that you could get on Mr.
8 Herrera in this case?

9 A. Related to the Molina homicide, yes. I
10 think we had some leads or some information regarding
11 drug trafficking.

12 Q. Okay. And that's a fair distinction. Just
13 in terms of the Molina homicide.

14 A. Yes.

15 Q. Okay. And when you had that first meeting
16 with Mr. Cordova -- and I got a little confused about
17 that for the reason you explained that, when you look
18 at the 302s -- what are the other things called?

19 A. 1023s.

20 Q. 1023s. You're going to have to bear with
21 me on those. The dates are sort of different; you've
22 got three dates on there?

23 A. Yes. You should know on the 302s, there
24 are three dates, too. It's confusing.

25 Q. Okay. But all of those initial meetings

1 with Mr. Cordova were in January?

2 A. Yes.

3 Q. And how many of those meetings were there?

4 A. I think there were three.

5 Q. Okay. And in any of those meetings, did

6 Mr. Cordova tell you how or why he thought Mr.

7 Herrera was involved in the Molina homicide?

8 A. Yes.

9 Q. Okay. And what did he say to you?

10 A. Well, what I recall is that he told us that
11 Mr. Herrera was an influential member in yellow pod,
12 and might have been a llavaro or the keyholder or the
13 pod boss.

14 Q. Okay.

15 A. He talked about the paperwork having been
16 brought down and given to Mr. Herrera. And at that
17 point, I thought all that was good, but I wanted
18 recordings.

19 Q. Okay. Did you think that that information
20 was important, that he provided you in those meetings
21 in January?

22 A. Yeah. I mean, it was -- well, yes and no.
23 I mean, it's important that there is another guy from
24 the SNM telling me a story. But where can we go with
25 this story? That's when it becomes important to me.

1 Q. Well, would it be fair to say that the
2 information that you were provided prompted you to do
3 further investigation?

4 A. Yes.

5 Q. And in that sense the information was
6 important?

7 A. Yes.

8 Q. Was that information documented in any of
9 the 302s or 1023s that were a result of this January
10 meeting?

11 A. Definitely not of the first meeting at MDC;
12 that I'll characterize as a recruitment, if you will.

13 Q. Okay.

14 A. I think the first report is the 7th, and
15 I'm not sure if that information is in there.

16 Q. Would it help if you reviewed it?

17 A. Sure.

18 Q. Okay. I'm going to have to see if I
19 brought that one up with me. I did.

20 I'm going to hand you -- actually since
21 we're going through these, I'm going to hand you --
22 all right. Here we go. Basically, what I'm going to
23 hand you are the 302s or the 1023s that I believe to
24 be related to your initial conversations with Mr.
25 Cordova. And I'm just going to ask you to take a

1 look at those.

2 A. Ma'am, I'm looking for references to yellow
3 pod and Carlos Herrera and the murder?

4 Q. Correct. And the first question I'm going
5 to ask you actually is more -- are those the 302s or
6 the 1023s that you generated as a result of your
7 meetings with Mr. Cordova in January? And to be
8 perfectly fair, I may have handed you one that's not.
9 So please take a look and make sure that those are
10 correct.

11 A. I think that their report also is on point.
12 I think that's the same source.

13 Q. Okay. And did you get a chance to
14 review -- I think there are three of them. Did you
15 get a chance to review all three?

16 A. Yes.

17 Q. Would it be fair to say that in one report
18 Mr. Cordova details some of the drug trafficking
19 issues we talked about earlier?

20 A. Yes.

21 Q. Okay. Would it also be fair to say that
22 there is no information contained in those reports
23 that indicates that Mr. Herrera was involved in the
24 Molina homicide?

25 A. I did not see a mention of that.

1 Q. Okay. And those were the only documents
2 that you generated after your meetings with Mr.
3 Cordova. Are there any other forms? I mean, I don't
4 know what all the names for -- are there any others
5 that would have documented your initial meetings with
6 Mr. Cordova?

7 A. I didn't generate any of these.

8 Q. Okay.

9 A. And to answer your question, as to if there
10 are other forms, I'd have to check that closed
11 informant file to see what's in there, and then the
12 SNM case file.

13 Q. Is that the file that you said you wouldn't
14 have an objection to turning over, provided that you
15 get the permission from your superiors?

16 A. Yes.

17 THE COURT: Ms. Bhalla, would this be a
18 good time for us to take our lunch break?

19 MS. BHALLA: Certainly, Your Honor. Thank
20 you.

21 THE COURT: All right. We'll be in recess
22 for about an hour. Have a good lunch.

23 (The Court stood in recess.)

24 THE COURT: Let's everyone take their
25 seats. I think everybody has got an attorney, a

1 client. Look around, make sure everybody has got
2 somebody.

3 It's a little warm. If the lawyers want to
4 take off jackets or something, that's fine, go ahead.
5 We'll be working to try to reduce the heat. It was
6 probably all that chicken in here that heated it up.
7 I had turkey from Walmart. I feel jealous.

8 All right. Mr. Acee, I'll remind you
9 you're still under oath. Ms. Bhalla, if wish to
10 continue your cross-examination of Mr. Acee.

11 Mr. Mondragon is here.

12 MR. BECK: Your Honor, we're going to be a
13 little unconventional with the Court's indulgence.
14 Everyone is sort of working on a tight timeline
15 today. We have Mr. Cordova here in the courthouse.
16 His attorney has a hearing tomorrow afternoon at
17 1:00. The way things have been going, we're going to
18 try to everyone work together to see if we can
19 finish. We're going to have Special Agent kind of
20 stop here and redo the rest of Ms. Bhalla's
21 cross-examination and anyone else's. But we think
22 it's an efficient use of everyone's time if we put
23 Mr. Cordova on the stand and try to get him done this
24 afternoon, if at all possible.

25 THE COURT: All right. Everybody in

1 agreement with that? All right. Mr. Acee, you may
2 step down.

3 MR. BECK: So we're going to work on
4 getting Mr. Cordova up here as soon as possible. I
5 think the marshals are coordinating that as we speak.

6 THE COURT: Hey, guys, let's talk a second
7 here. Everyone be on best behavior when Mr. Cordova
8 comes in here, okay?

9 DEFENDANT TROUP: Yes, sir.

10 MR. BECK: To make --

11 THE COURT: Let me make a new comments
12 here. We've got to start practicing for the jury,
13 right? There is going to be people walking into the
14 courtroom during the jury trial. And I bet your
15 defense lawyers are going to tell you: Look like
16 you're playing poker, you know. Nothing happened,
17 and you want to be on your best behavior. So I bet
18 I'm just echoing what your lawyers are saying. But
19 let's do a practice run here, okay?

20 All right. Mr. Beck.

21 MR. BECK: To make an efficient use of the
22 Court's time, I believe that a couple of defendants
23 for this motion to suppress had the marshals execute
24 service of subpoenas this morning for some witnesses
25 to be here as early as this afternoon, or as late as

1 tomorrow.

2 The attorney for New Mexico Corrections
3 Department, their general counsel, contacted us, and
4 German Franco, the Warden at PNM is unable to be here
5 tomorrow because of some issues that he has. He's
6 unable to be here tomorrow. So the United States --
7 Corrections Department asked the United States to
8 move orally to quash that subpoena for him. I am
9 doing that now. I think there is good cause to quash
10 that subpoena, given that it was served this morning,
11 for him to be here tomorrow. I have a sense with the
12 amount of witnesses that we will present this
13 afternoon and tomorrow morning, through tomorrow
14 afternoon, it's not going to put anyone at a
15 disadvantage. I don't think that he would testify
16 tomorrow afternoon regardless. But given the late
17 service, and given that Warden Franco cannot attend,
18 I think there is good cause to quash that subpoena
19 that was served on him this morning.

20 THE COURT: Any objections to doing that?

21 MS. FOX-YOUNG: Your Honor, I think it's
22 true that we may not need to call him, and there are
23 some other witnesses. But we'd like to hold it open
24 for later, if we do decide. I think --

25 THE COURT: Do you want me to quash this

1 subpoena, and then I can reissue at the time that you
2 need him?

3 MS. FOX-YOUNG: Yes, Your Honor.

4 THE COURT: All right. Anybody else have
5 any problem with that? All right. So the subpoena
6 as to -- it's German Franco, right?

7 MR. BECK: Yes.

8 THE COURT: -- German Franco, will be
9 quashed.

10 MR. BECK: Thank you, Your Honor.

11 I just received an update from the marshals
12 that he should be here in about one minute or right
13 now.

14 THE COURT: I think he's coming in the back
15 door here. All right, Mr. Cordova --

16 THE WITNESS: Do I stand?

17 THE COURT: Yeah, why don't you stand. And
18 before you're seated, Ms. Standridge will swear you
19 in.

20

21

22

23

24

25

1 BILLY CORDOVA,
2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 DIRECT EXAMINATION

5 THE CLERK: Please be seated. State your
6 name for the record, spelling it.

7 THE WITNESS: Billy Cordova. B-I-L-L-Y.
8 Cordova, C-O-R-D-O-V-A.

9 THE COURT: Mr. Cordova. Mr. Castellano.

10 MR. CASTELLANO: Thank you, Your Honor.

11 BY MR. CASTELLANO:

12 Q. Good afternoon, Mr. Cordova.

13 A. Good afternoon.

14 Q. Have you ever testified in court before?

15 A. No, sir.

16 Q. I'm going to ask you some questions, and
17 starting with where you were in January of 2016. Do
18 you remember where you were?

19 A. I believe in MDC, county jail.

20 Q. Where is that located?

21 A. Albuquerque, New Mexico, on the west side.

22 Q. And what were you doing at the facility at
23 that time?

24 A. I was waiting on sentencing for a trial I
25 had went to.

1 Q. And do you remember about how long you had
2 been at that facility?

3 A. Maybe about two months.

4 Q. And where had you been housed before that
5 time?

6 A. At the PNM North, back and forth from
7 Central, Los Lunas, CNM CF, back to PNM.

8 Q. When you say CNM CF, is that the Central
9 New Mexico Facility?

10 A. Yes, sir. I would go about every two weeks
11 back and forth from motions.

12 Q. And were those motions related to your
13 trial?

14 A. Yes, sir.

15 Q. And can you tell the Judge whether you were
16 convicted in that case?

17 A. Yes, sir.

18 Q. What was the crime that you were convicted
19 for?

20 A. Manslaughter.

21 Q. And are you currently incarcerated?

22 A. Yes, sir.

23 Q. Is it for that same crime?

24 A. Yes, sir.

25 Q. Now, during your time at MDC, did you ever

1 meet somebody named Bryan Acee?

2 A. Yes, sir.

3 Q. How did you meet him?

4 A. He came and pulled me out, talking about a
5 RICO Act; that he was looking at me for a RICO Act on
6 the SNM.

7 Q. Did he say he was looking specifically at
8 you or at the SNM in general?

9 A. At the SNM in general.

10 Q. And did you expect to see him on that day?

11 A. No, sir.

12 Q. Tell us what happened when you walked into
13 the room with him.

14 A. I remember he was sitting to the left, and
15 two other agents were sitting in front of me on the
16 other side, on the opposite side of the table.

17 Q. And did they explain to you what was going
18 on at that time?

19 A. Yes, sir.

20 Q. And what did they tell you?

21 A. They told me that they had just picked up
22 the SNM on a RICO Act, and they were doing a second
23 indictment, and that they were looking at me for a
24 RICO.

25 Q. What was your response to hearing that

1 information?

2 A. It took a while for it to set in, and I
3 made the decision to cooperate with the FBI.

4 Q. Now, where were you in terms of -- at that
5 time, were you an SNM Gang member?

6 A. I guess you could say, yeah. But at heart,
7 no.

8 Q. So let me ask you about that, then. You
9 said "at heart, no." Where were you in your own mind
10 in terms of the SNM?

11 A. I just didn't want nothing do with them
12 anymore.

13 Q. So if that was the case, how did this
14 timing work out for you between your mindset of
15 wanting to get out of the gang and meeting someone
16 from the FBI?

17 A. It was just luck, coincidence.

18 Q. What did you agree to do at that first
19 meeting, and then maybe at later meetings? Let's
20 start with that meeting.

21 A. I agreed to get some wiretaps for them on a
22 murder that occurred, Javier Molina.

23 Q. If you recall, did they ask you
24 specifically about the Molina homicide or just
25 murders in general?

1 A. They asked me about murders in general.
2 I'm the one that told them about the Molina murder.
3 Because I figured I was there in MDC when they had
4 did the first sweep. And I was in Southern New
5 Mexico when the Molina murdered occurred, so I know
6 who was involved in it, and I knew who was swept up
7 and who was still left behind. So I was honest with
8 them. I was honest with them, tell you what I can
9 give you, but this is what it is.

10 Q. Let me ask you this: You said that you
11 knew who was swept up. Does that mean you knew who
12 was charged initially?

13 A. Yes.

14 Q. And in your mind, did you think there were
15 some people who had not been charged who were part of
16 the Molina murder?

17 A. Yes. I knew, because when I was coming in
18 the middle of my trial, I seen everybody in there.
19 They were all in there.

20 Q. And at that point who did you think was
21 missing from the Molina murder?

22 A. Carlos Herrera and Rudy Perez.

23 Q. Now, you said you were at Southern when the
24 Molina murder took place. In which pod were you?

25 A. I was in yellow pod, cell 116, on the top

1 tier or -- yeah.

2 Q. And do you know in which pod the Molina
3 murder occurred?

4 A. It occurred in blue pod.

5 Q. And so the Judge knows, where is the yellow
6 pod in relation to the blue pod?

7 A. Right next to it. Blue pod is the first
8 pod when you come in, yellow pod is in the middle,
9 and green pod is to your right. So, yeah, it's right
10 next to my pod.

11 Q. And was there any type of door or anything
12 that connected the two pods?

13 A. Yeah, there is a two-tier separation doors
14 on the top tier and the bottom tier.

15 Q. So, in other words, could you access the
16 blue pod from the yellow pod through a door?

17 A. Yes, sir, that is how we communicate with
18 other inmates in the next pods.

19 Q. Okay. Now, you mentioned wiretaps of
20 people. What do you mean by that term "wiretap"?

21 A. I told them that I could get them talking
22 about the murder, and I agreed to cooperate and go
23 get it.

24 Q. Now, if this was in January, about how soon
25 do you think it was before you were recording

1 somebody?

2 A. February.

3 Q. And did you record somebody in that
4 timeframe?

5 A. Yes, I recorded Rudy Perez at PNM North.
6 It was in Q pod. He was in 101 and I was in 102.

7 Q. And when you mentioned the numbers 101 and
8 102, are those the cell numbers in that pod?

9 A. Yes, sir.

10 Q. I'm showing you what's been admitted as
11 Rudy Perez' Exhibit B. It's Bates stamped 28475 for
12 the record.

13 A. Yes.

14 Q. Okay. Do you recognize what's on the
15 exhibit right now?

16 A. Yes, yes, sir.

17 Q. What is that?

18 A. That is Unit 3A at PNM North.

19 Q. And you mentioned one of the pods where you
20 recorded Mr. Perez. Which pod was that?

21 A. The first pod on the left.

22 Q. So Q pod?

23 A. Yes, sir.

24 Q. Do you recall approximately where you were
25 and where Mr. Perez was?

1 A. I was in cell 102 and Perez was in cell
2 101.

3 Q. Do you know where -- approximately where on
4 that picture those cells would be?

5 A. Yes, sir. About the bottom left-hand
6 corner.

7 Q. I'm going to highlight the screen here, put
8 an arrow.

9 A. Yes, right there. Right there.

10 Q. And so you think there were two cells in
11 the corner?

12 A. Yes, sir.

13 Q. Top tier or bottom tier?

14 A. Bottom tier.

15 Q. And were you given any type of recording
16 device to capture your conversations?

17 A. Yes, sir.

18 Q. Okay. I won't ask you to describe it for
19 us, but was it a device you were able to use to
20 record the conversations?

21 A. Yes, sir.

22 Q. And did you know how to turn it on and off?

23 A. Yes, sir.

24 Q. Was there any way for you to rewind or
25 delete --

1 A. No, sir.

2 Q. -- conversations?

3 A. No, there was only a button for on and off,
4 and that was it.

5 Q. Once again, without describing the button,
6 was it easy to turn on and off, so that you wouldn't
7 record things by accident or cut things off by
8 accident?

9 A. Yes, sir.

10 Q. Tell us about when you were housed in Q
11 pod, what type of housing or classification level was
12 that?

13 A. Level 6.

14 Q. And tell us what it means to be in Level 6,
15 as best as you understand it.

16 A. It's a max secured prison. So anytime you
17 leave your cell, you got to get cuffed through a food
18 port, and you've got to be with a two-man escort, two
19 COs escort you either to the yard or shower, and that
20 is how you get escorted, in restraints, at all times.

21 Q. So at this time were you able to move about
22 freely and talk to Mr. Perez?

23 A. No.

24 Q. How were you able to communicate with him?

25 A. Through under the bunk in the cell. There

1 is a ventilation system right there. It's a heater.

2 Q. And so the Judge understands, how are you
3 able to talk to people through the vents?

4 A. You are able to talk real good, real clear.
5 There is two ways. There is one on top, which is the
6 ventilation system that keeps the air flow
7 circulating in the cell, and the bottom one is a
8 heater.

9 Q. And have you and other inmates been able to
10 communicate using the vents before?

11 A. Yes, that's how we communicate without
12 talking on the tiers.

13 Q. All right. So other than speaking to Mr.
14 Perez through the vents, did you ever have a
15 face-to-face interaction with him? Were you able the
16 move around that way?

17 A. No, sir.

18 Q. And do you remember approximately how long
19 you were housed next to Mr. Perez?

20 A. To my recollection, I can't be right-on,
21 but about a month.

22 Q. Do you remember approximately how many days
23 or times you were able to record him?

24 A. To my recollection, between three, four, or
25 five.

1 Q. And just so we're clear, are we saying
2 three, four, or five times, or days?

3 A. Days.

4 Q. If you can tell us about your interactions
5 with Mr. Perez in terms of how you got him to start
6 talking. Did you guys know each other from before?

7 A. Yes.

8 Q. How did you know each other from before?

9 A. We were both SNM Gang members. We gave
10 time in the same unit together.

11 Q. About how long do you think you knew Mr.
12 Perez?

13 A. Since 2009, in Las Cruces, New Mexico, in
14 the SNM CF.

15 Q. When you say SNM CF, is that the Southern
16 New Mexico Correctional Facility?

17 A. Yes, sir, it's a Level 4 facility there.

18 Q. And what type of information did you think
19 you would be getting from Mr. Perez during your
20 conversations?

21 A. About him giving the piece of steel from
22 his wheelchair to provide a shank to murder Javier
23 Molina.

24 Q. Were you able to get that information from
25 him?

1 A. Yes, sir.

2 Q. When you were recording him, did you try to
3 put the device close to the vent to capture the
4 conversation?

5 A. Yes, sir, I put it right on.

6 Q. Did you try to intimidate Mr. Perez in any
7 way?

8 A. No, sir.

9 Q. Do you remember any discussions about him
10 either being a rat or people talking about him?

11 A. Well, I would say pressure points, because
12 I can't go right-on and ask him about a murder case,
13 you know, what I'm saying?

14 Q. Well, what, if anything, would be wrong if
15 you went directly to asking him about the Molina
16 murder?

17 A. Well, it's a hear no, see no evil code we
18 live by. So anything like heroin or cocaine or weed,
19 outspoken like that, something is wrong, do you know
20 what I'm saying? So we use code words for
21 everything. So what I was using was an indirect
22 question to get an honest answer, you get what I'm
23 saying? I was using pressure points to get him to
24 reveal the truth.

25 Q. Some of these conversations in the

1 transcripts appear to start maybe mid-sentence. What
2 can you tell us about turning on the device to record
3 conversations?

4 A. Well, the device I had had two AAA
5 batteries. I didn't know how long I was going to be
6 there. I didn't know what was going to be expected
7 of me. So it's not like I go to a 7-Eleven and buy
8 batteries. So I turned it on when I felt something
9 needed to be recorded, and I turned it off when it
10 was just gibberish.

11 Q. All right. So when you turned it on, what
12 did you think you would be capturing?

13 A. The details on him giving the shank to "Dan
14 Dan" Sanchez to sharpen, to do the murder on Javier
15 Molina.

16 Q. So you touched on that a little bit ago.
17 Did you know how long you would be housed next to Mr.
18 Perez?

19 A. No, I didn't know.

20 Q. Do you know how long it would be before you
21 could maybe get new batteries?

22 A. No.

23 Q. Did you have concerns about conserving the
24 batteries?

25 A. Very concerned.

1 Q. The allegation in this case is that you
2 gave Mr. Perez Suboxone before you spoke to him. Can
3 you tell the Judge whether or not you ever gave him
4 Suboxone?

5 A. No, Your Honor, I never gave Rudy Perez no
6 Suboxone.

7 Q. Do you know what Suboxone is?

8 A. Yes, sir.

9 Q. Do you recall if you gave anything to Mr.
10 Perez during the time you were housed next to each
11 other?

12 A. No, sir.

13 Q. Just to clarify my last question: I think
14 you asked you if you recalled giving him anything.
15 Did you give anything to Mr. Perez?

16 A. No, he gave me some ear buds for an AM/FM
17 radio. That was about it. But I never gave him
18 nothing.

19 Q. So it's your testimony that he gave you ear
20 buds, but you didn't give him anything?

21 A. No.

22 Q. As best as you could tell, did Mr. Perez
23 appear to be under the influence of Suboxone or
24 anything of that nature?

25 A. No.

1 Q. Did his answers seem responsive to your
2 questions?

3 A. Yes.

4 Q. Okay. Now, after you finished the
5 recordings with Mr. Perez, were you moved next to
6 anyone else in this case?

7 A. Yes.

8 Q. Who was that person?

9 A. That was Carlos Herrera.

10 Q. Now, was that in the same pod or a
11 different pod?

12 A. No, it was a different pod. It was a
13 different facility. It was PNM South. It was a
14 Level 4 facility.

15 Q. And approximately how long were you housed
16 next to Mr. Herrera?

17 A. Approximately, maybe a few weeks, a month
18 tops, I think.

19 Q. And do you remember approximately how many
20 days you were able to record him?

21 A. Between seven to eight days, probably about
22 a week, maybe a little over a week.

23 Q. And how is it that you were able to talk to
24 Mr. Herrera? Did you know each other from before?

25 A. Yes, sir.

1 Q. Where did you know him from?

2 A. I knew him from the same facility, when we
3 were Level 5 inmates. We used to have GED classes
4 together. And then I knew him from the Level 4 in
5 the South.

6 Q. Were you ever in the same pod with him at
7 the Southern New Mexico Correctional Facility?

8 A. Yes, sir.

9 Q. When was that?

10 A. I was with him in 2009 to 2010, and I was
11 with him in 2013, 2014.

12 Q. Were you in the same pod as Mr. Herrera or
13 a different pod when the Molina murder occurred?

14 A. I was in the same pod with him.

15 Q. So, based on your prior relationship with
16 him, did you feel that he would open up and talk to
17 you?

18 A. Yes, sir.

19 Q. And did he, in fact, do that?

20 A. Yes, sir -- well, to a certain point. He
21 wasn't really trying to say nothing too much, so I
22 got to him reveal other ways, you know what I mean?

23 Q. Okay. What do you mean he didn't appear to
24 want to say anything?

25 A. At first, he didn't want to say anything.

1 But then I got him to admit it indirectly.

2 Q. And what do you recall he told you?

3 A. We were just talking about the tabla, and
4 about who should be calling hits on rats, such as
5 Javier Molina. And how the tabla should be the ones
6 to say what goes and what don't go. So that's how I
7 got him to implicate himself in the murder, because
8 he was part of the tabla.

9 Q. If you can tell the Court what the tabla
10 is?

11 A. It's a five-person direct board that calls
12 all policies and business transactions, murder
13 transactions, anything that goes on, makes the rules,
14 and does -- they're the ones that say: What goes --
15 onda -- the onda, which is in the SNM Gang, they say,
16 "What goes and what don't go."

17 Q. I'll ask you the same question about Mr.
18 Herrera. Did you give him any drugs before talking
19 to him?

20 A. No, sir.

21 Q. Did you and Mr. Herrera exchange anything
22 during your time next to each other?

23 A. I gave him some canteen, that was about it.

24 Q. Be a little more specific in terms of what
25 you might give someone with canteen.

1 A. Canteen is prison store-bought food, nutty
2 bars, soups, chips, coffee; stuff like that.

3 Q. How were you able to get those things to
4 Mr. Herrera?

5 A. When I first got to the Level 4 facility
6 there, we were under investigation for the -- no,
7 for --

8 Q. Was it another assault?

9 A. Yeah, it was another assault on another SNM
10 member, Julian Romero. That was his name. So they
11 had us under investigation, because they didn't know
12 who could be housed with who, and they didn't know if
13 letting us out, there was going to be another
14 assault. So during that time, we had food ports on
15 our doors and food ports are little holes that open
16 and lock, and there are latches. And when the latch
17 opened for food, he threw me a bag tied to a line. I
18 threw some food in it, and he pulled it back. That
19 was about it.

20 Q. Do you remember approximately how many
21 times that happened?

22 A. Once.

23 Q. I'm going to ask you about a conversation
24 that took place with Mr. Cordova and another person,
25 I believe named Dale Chavez?

1 A. Yes, sir.

2 Q. Do you remember that conversation?

3 A. Yes, sir.

4 Q. First of all, who is Dale Chavez?

5 A. Dale Chavez is "Dreamer" from Albuquerque,
6 from a street gang, Valley Gardens.

7 Q. And were you housed near Mr. Herrera, where
8 were you housed in relation to where he was?

9 A. Right next to him.

10 Q. And during that time -- since you said it
11 was Level 4, what kind of movement did you guys have
12 at that point?

13 A. At that time, we were barely getting ready
14 to come out on tier time, that's for two hours, we
15 just come out on the pod and that's it.

16 Q. So there were times that you were able to
17 see Mr. Herrera face-to-face?

18 A. Yes.

19 Q. Did you guys exchange anything during that
20 timeframe?

21 A. No, sir.

22 Q. So if you and Mr. Herrera were next to each
23 other, where was Mr. Chavez located?

24 A. Directly upstairs from me, in the cell
25 upstairs directly up.

1 Q. And the times you recorded Mr. Herrera, did
2 you have a recording device?

3 A. Yes, sir.

4 Q. And how did you two communicate at that
5 point?

6 A. Underneath the bunk in the heater, the same
7 way me and Perez did.

8 Q. And, as best as you could, did you try to
9 get the recording device near the heater?

10 A. Direct on.

11 Q. During the time that Mr. Chavez was there,
12 were you also able to capture part of the
13 conversation with him?

14 A. Yeah, but it was a different vent. It was
15 the ventilation, the one that circulates the air. So
16 that one is directly on top of the desk.

17 Q. So you have a lower vent to talk to Mr.
18 Herrera, and then a higher vent to talk to people
19 above you?

20 A. Yes, sir.

21 Q. I'm going to show you what's DeLeon Bates
22 stamp 20999. And I want to ask you about a
23 conversation you had with Mr. Chavez and Mr. Herrera.
24 The time that you finally reached the facility, about
25 how long had it been since you were on the streets?

1 A. I would say approximately a year and a few
2 months.

3 Q. Now, this is a conversation that starts
4 mid-sentence. And do you see the discussion about --
5 well, you say, "They're still going for five, 10, or
6 12 out there, no?"

7 A. We're talking about Suboxone strips.

8 Q. So on that occasion were you actually
9 talking about drugs?

10 A. Yes, sir. I was talking about buying drugs
11 from him.

12 Q. What was the purpose of having that
13 discussion with him?

14 A. Because I didn't know what Bryan Acee was
15 going to have me do next. So I was just trying to
16 collect as much things as I can for the FBI.

17 Q. So talk about drugs could involve drug
18 trafficking?

19 A. Yes, sir.

20 Q. Tell us about this conversation. You seem
21 to be going back and forth on prices, five, 10, and
22 12 are some of the numbers you mentioned.

23 A. Those are the cost per strip.

24 Q. So having been on the streets about a
25 little more than a year before that, were you

1 familiar with the drug prices?

2 A. Yes, sir.

3 Q. And was this discussion related to you
4 having given any drugs to Mr. Herrera?

5 A. No, sir.

6 Q. On the next page, DeLeon page 21000, at the
7 top of the page Chavez says -- calls out the name
8 "Lazy." Do you know who that person is?

9 A. Yes, sir, that's Carlos Herrera.

10 Q. At that point, were you and Mr. Chavez and
11 Mr. Herrera able to communicate with each other?

12 A. Yes, sir. That was the top vent above the
13 desk.

14 Q. Okay. On that same page are you the person
15 identified as the "CHS" on this?

16 A. Yes, sir.

17 Q. Do you see where it says, "Are you crashing
18 out, 'Lazy'?"

19 A. Yes, sir.

20 Q. What are you asking Mr. Herrera at that
21 point?

22 A. Is he going to sleep.

23 Q. And do you see where Chavez asks him or
24 asked the question: "He's over there doing bad,
25 huh?"

1 A. That means he ain't got no drugs.

2 Q. Now, explain that to someone who doesn't
3 understand, when Chavez says someone is doing bad,
4 what does that mean?

5 A. He wasn't high, so he was doing bad. So
6 like if you're doing good, means you're high. That's
7 the terms we use. When we talk about people, we can
8 say: "That guy is doing good in the streets." That
9 means he's out there doing the most, robbing,
10 jacking, doing whatever he can for the onda, to
11 further our goals in the onda. At that point what we
12 were talking about doing bad was not having any
13 drugs. So you're doing bad is when you're not
14 feeling good, we didn't have no drugs. We weren't
15 feeling good, in other words.

16 Q. Had you had drugs at the time, would you
17 have been using them?

18 A. Of course.

19 Q. Why do you say that?

20 A. Because I'm an addict. And I would
21 probably have been giving them some, too. I'm just
22 being honest.

23 Q. About how long do you think you were housed
24 next to Mr. Herrera?

25 A. Maybe around a month or so. Maybe a little

1 over a month.

2 Q. And if you were with him that period of
3 time you captured maybe a little more than a week,
4 what else were you doing or talking about during that
5 timeframe?

6 A. I was trying to get him to talk about the
7 Molina murder. And he wouldn't go into it directly.
8 So I had to get it from him indirectly by getting him
9 to talk about the SNM, the organization, how he's on
10 the tabla, and how the tabla sees things should be
11 done for onda, and how shots should be called. That
12 was it.

13 MR. CASTELLANO: May I have a moment, Your
14 Honor?

15 THE COURT: You may.

16 Q. You mentioned these words a few times. But
17 just to clarify the tabla, what are you referring to?

18 A. The tabla is the five-man desk that calls
19 any shot, such as a murder. They're the only ones
20 that can call that shot on another brother. Anybody
21 else hits a brother without probable cause, could be
22 held accountable by the tabla. So the tabla is the
23 one that issue out all the discipline actions, such
24 as violations, people getting beat up for, you know,
25 breaking policies or regulations, rules of onda, to

1 murders, to how the whole structure is ran.

2 Q. So when you get Mr. Herrera to talk about
3 hitting snitches, is that something the tabla would
4 approve?

5 A. Yes, of course.

6 Q. And he was a member of the tabla?

7 A. Yes, sir.

8 Q. You mentioned the onda again. Who are you
9 referring to when you use the word "onda"?

10 A. Onda, it's a term used is destiny. It's
11 our -- what we use for the SNM, supposed to be our
12 destiny. So that's what I use when I say that, the
13 SNM.

14 Q. Now, in terms of any instructions given to
15 you, were you instructed to take advantage of any
16 potential psychological or mental problems that Mr.
17 Perez may have had?

18 A. What do you mean?

19 Q. Basically, were you instructed to take
20 advantage of any problems that Mr. Perez may have, in
21 order to get statements from him?

22 A. No, sir.

23 Q. Did you, in fact, take advantage of any
24 disabilities he may have had in order to get
25 statements from him?

1 A. No, sir.

2 Q. The same question when it comes to Mr.
3 Herrera. Were you instructed to take advantage of
4 any issues or disabilities that he may have had?

5 A. No, sir.

6 Q. And did you, in fact, do that?

7 A. No, sir.

8 Q. Going back to your movement next to Mr.
9 Perez, did you know when you were going to be moved
10 next to him?

11 A. No, sir, just spur of the moment.

12 Q. So how much notice did you have before you
13 were moved from your location at the time next to Mr.
14 Perez?

15 A. Probably about an hour.

16 Q. And same question regarding Mr. Herrera.
17 Did you know at what point you might be moved next to
18 him?

19 A. About the same.

20 Q. In other words, did people share with you
21 details of the operation, about when you might be
22 moved or where?

23 A. No. They would just tell me on spur
24 moment.

25 Q. Now, based on things you said to the FBI,

1 was it your understanding that at some point you
2 might be placed next to either of those two
3 gentlemen?

4 A. I just -- like I said, it was a spur moment
5 thing. Just here, use this. You said you can get
6 this, you know what I mean? I was given the rules
7 when he talked to me, told me they don't lie, they
8 don't give us drugs, don't entrap people. It's all
9 about being honest. So what he wanted was the truth,
10 plain and simple. That's what Bryan Acee said. So
11 he gave me a task and I followed it through.

12 MR. CASTELLANO: May I have a moment, Your
13 Honor?

14 THE COURT: You may.

15 MR. CASTELLANO: Thank you, Your Honor. I
16 pass the witness.

17 THE COURT: Thank you, Mr. Castellano.

18 Are you going to take the lead, Ms. Bhalla?

19 MS. BHALLA: Yes, Your Honor. Thank you.

20 EXAMINATION

21 BY MS. BHALLA:

22 Q. Good afternoon, Mr. Cordova.

23 A. Good afternoon, Miss.

24 Q. My name is Carey Bhalla.

25 A. Nice to meet you.

1 Q. Nice to meet you also.

2 Before you came to court today, did you
3 know what you would be asked to testify about?

4 A. To be honest with you, no. I just got
5 transferred over here. Last night I got to CNM CF.
6 I didn't even know this was coming.

7 Q. Did anybody go out to speak you to last
8 night?

9 A. I just spoke to my lawyer. He told me this
10 is what it's going to be, and this is what we're
11 doing.

12 Q. Did he tell you what the conversation would
13 be about today?

14 A. Yes, ma'am.

15 Q. And who transported you here this morning?

16 A. I believe correctional officers from CNM
17 CF.

18 Q. Did you recognize any of them?

19 A. No, ma'am.

20 Q. Okay. And I wanted to ask you a little bit
21 about some of the housing issues that Mr. Castellano
22 was asking you about. You were housed in Las Cruces
23 or Otero during the Molina homicide? Where were you
24 housed during the Molina homicide?

25 A. I was in Southern New Mexico Correctional

1 Facility.

2 Q. Sorry, I was thinking of now, and not back
3 then. So you were at Southern?

4 A. Yes, ma'am.

5 Q. Okay. And you were in the yellow pod?

6 A. Yes, ma'am.

7 Q. Okay. And you were talking a little bit
8 about how, even though you guys were on Level 4, you
9 were on lockdown?

10 A. No, ma'am, I was at the South.

11 Q. At South?

12 A. Yes, ma'am.

13 Q. How were you able to move around, and what
14 was life like for you when you were at Southern
15 during the Molina homicide?

16 A. We're on tier time. We were out all day at
17 that time. The Secretary of Corrections had came
18 down and pretty much said that we'd been doing good,
19 we'd been earning our privileges back. And we were
20 on a step process routine, because of what kind of
21 individuals we were.

22 Q. What does that mean?

23 A. We were in a level program. It goes based
24 on your behavior. It's based on the privileges
25 you're allowed to get.

1 Q. Okay. What happened after the Molina
2 homicide, in terms of how you guys were housed, or
3 what things were like for you then?

4 A. It was -- you know, they came in, they did
5 their investigation, they shook everybody down, they
6 looked for wilas, anything that can help them with
7 the investigation. And that was it. Then we were
8 kept on lockdown for a little bit.

9 Q. How long were you kept on lockdown?

10 A. I got out in April, so I can't tell you.

11 Q. Where did you go in April?

12 A. I went home.

13 Q. Okay. You got released?

14 A. Yes, ma'am.

15 Q. Did you get let out of the lockdown before
16 you went home?

17 A. No, ma'am.

18 Q. Okay. And what was lockdown like when you
19 were at Southern?

20 A. Like any other lockdown. You just get your
21 three meals a day, you get your canteen in your cell,
22 you watch TV in your cell, you listen to radio in
23 your cell. It's all in your cell. You get 23 hours
24 a day, you get five days of rec. You get your
25 showers five days a week. That's it.

1 Q. All right. Do you have any tier time?

2 A. No, ma'am.

3 Q. What about rec time? I missed that, I'm
4 sorry.

5 A. Yeah, you get one hour five days a week.

6 Q. One hour five days a week. And when you're
7 out on rec, are you by yourself or are there people
8 out there?

9 A. No, ma'am, we're in cages.

10 Q. You're in cages in the rec room?

11 A. Yes, ma'am.

12 Q. So it's a cage outside?

13 A. Yes, ma'am.

14 Q. How big is the cage?

15 A. Probably about 7 feet by 7. You're in
16 there by yourself. That's only when we were on
17 Interim Level 6 Status. That's why.

18 Q. And it's called Interim Level 6?

19 A. Yes, ma'am.

20 Q. Is it really rec time? I mean, what's that
21 like? Do you get to move around much?

22 A. Well, for individuals that are murdering
23 each other, that's the best they can do.

24 Q. Well, I understand that. But I mean, does
25 it feel like actual rec time?

1 A. Yeah, we went outside, pull a bar, a bar in
2 your rec cage. You get to talk to your friends out
3 there. It's rec time.

4 Q. How do you get to talk to them if you're in
5 a cage?

6 A. Through the cage.

7 Q. Are they in other cages?

8 A. Yes, ma'am.

9 Q. How many cages are outside?

10 A. About approximately, I believe, 12.

11 Q. Twelve?

12 A. Twelve cages.

13 Q. And they're all about the same size?

14 A. Yes, ma'am.

15 Q. Do you know if Carlos was put on Interim
16 Level 6 during that time as well?

17 A. We all were.

18 Q. Okay. And was he still there when you were
19 released?

20 A. Yes, ma'am.

21 Q. And was he still on lockdown when you were
22 released?

23 A. Yes, ma'am.

24 Q. After the Molina homicide, did Carlos say
25 anything to you about the homicide?

1 A. Well, we would all -- he told me before, so
2 I knew what was going on. And when we were all out
3 there in the yard, pretty much everybody was trying
4 to keep quiet. But there was things being said.

5 Q. Can you give me some details?

6 A. That it was about time that (speaks
7 Spanish) went. Excuse my language. So what it means
8 in English, "It's about time that piece of S went."

9 Q. Okay. And who said that?

10 A. A few guys.

11 Q. Did Carlos Herrera say that?

12 A. Well, they were saying it towards him.

13 Q. Towards Carlos?

14 A. Yes, ma'am.

15 Q. But you never heard Carlos say that?

16 A. Well, he was the one that called it.

17 Q. How do you know he was the one that called
18 it?

19 A. Because the order came out from the hole.

20 Q. How do you know that he's the one who
21 issued the order from the hole?

22 A. Because I was right there when it was going
23 on.

24 Q. And what did you see or what did you hear
25 when it was going on?

1 A. I seen paperwork being passed around. And
2 he told me, "Get on your phone, call your people,
3 because we're about to go on lockdown."

4 Q. Who said that?

5 A. Carlos Herrera.

6 Q. What paperwork did you see?

7 A. It was some paperwork on Javier Molina,
8 something about a burglary and Jesse Sosa, something
9 about the cop, related to heroin, was going to book
10 him on a PV.

11 Q. Did you read it?

12 A. Yes, ma'am.

13 Q. Who all read it?

14 A. Pretty much everybody Carlos thought was
15 important to see it.

16 Q. Do you know who brought the paperwork in?

17 A. It had already been there. It had already
18 been there, old set of paperwork, and then a new set
19 of paperwork came with Archie and "Marijuano," and
20 they pushed the issue when they were in orientation
21 to do it.

22 Q. And when did that happen?

23 A. Around -- it happened within hours. They
24 arrived, and it happened within a day; maybe at most,
25 two days, if that.

1 Q. I'm going to break this up a little bit.
2 So you said there was old paperwork?

3 A. Yes, they were extorting the guy for drugs.

4 Q. Say that again.

5 A. They were extorting him for drugs.

6 Q. Okay. Tell me about -- when did the old
7 paperwork come down?

8 A. Been there for two years.

9 Q. Do you know who brought that paperwork?

10 A. No.

11 Q. And you said they were extorting him for
12 drugs. Who they were extorting for drugs?

13 A. Molina.

14 Q. Molina. And what was in that paperwork
15 that led you to believe they were extorting him for
16 drugs?

17 A. Him ratting on Jesse Sosa, he spoke to the
18 cops. See, in the SNM, we have a no-talk policy to
19 police officers. Basic -- a basic sentence, even if
20 you're not ratting, you're helping an agent with his
21 investigation. That's still talking.

22 Q. You know what, do me a favor, if you don't
23 mind. I think what's happening is you're getting
24 just a little bit close --

25 A. Sorry about that.

1 Q. No, that's okay. It gets a little muffled
2 when you're too close to it.

3 So, can you repeat that? I'm sorry?

4 A. There is a no-talk policy to cops. And the
5 way he did, he said, This is where Jesse Sosa was,
6 the last time I seen him, and that was about it.

7 Q. Okay. And so that paperwork, I guess, no
8 one ever acted on it?

9 A. Well, it was because he was hitting drugs,
10 and they seen they can extort him. But once "Pup"
11 got locked up, "Pup" brought it to the
12 administration, stating: If you let me out, I'll put
13 a stop to all hits, all green lights. And when that
14 didn't happen, he sent the order out to "Lazy" to
15 handle it. And "Lazy" was getting too lazy to --

16 Q. To handle it?

17 A. Yes. And he was getting pressure by all
18 sides saying, Hey, you're on the tabla, you got to
19 handle this.

20 Q. And that was with the old paperwork or the
21 new paperwork?

22 A. The new paperwork.

23 Q. Okay. I'm going to go back. Let's stay on
24 the old paperwork for a while, if that's okay with
25 you. We'll get to the new paperwork. But I'm still

1 a little confused. With the old paperwork --

2 A. It's the same paperwork.

3 Q. Okay. So that paperwork came down two
4 years previously?

5 MR. CASTELLANO: Your Honor, I object to
6 relevance at this point. We're not talking about the
7 recordings, or how the recordings took place.

8 THE COURT: What's the relevance of this to
9 the suppression motion?

10 MS. BHALLA: Your Honor, I think what we're
11 trying to establish is -- part of what we're trying
12 to establish is what information was provided before
13 they went in to do the recordings, and what
14 information they were trying to obtain, and what
15 lengths -- what methods they would use to obtain that
16 information. And I think that one of the things that
17 may be relevant for the Court is how much that
18 information is consistent and how much that
19 information is inconsistent.

20 THE COURT: Well, isn't the real focus here
21 on how voluntary or involuntary the statements that
22 Mr. Herrera and Mr. Perez gave? It seems to me going
23 back up that way is getting us focused on things
24 that's not terribly important.

25 MS. BHALLA: I would say, Your Honor, that

1 what he knew is relevant to what he was able -- or
2 what tools he would need to utilize to gather more
3 information. So, for example, if he didn't have a
4 lot of information prior to this, he may be more
5 inclined to use more severe methods to get the
6 information that was promised. And how that
7 information differs, when he's next to Carlos, or
8 when he's next to Rudy, versus his original
9 knowledge, I think can show -- give the Court some
10 indication of what these informants were doing in
11 order to extract information.

12 THE COURT: Well, I'll give you a little
13 leeway, but not much here, because I think we're
14 going too much up the Government's food chain. We
15 need to be looking more at what Mr. Herrera and Mr.
16 Perez were thinking and doing.

17 MS. BHALLA: Okay. I understand, Your
18 Honor. I'll try to wrap this up.

19 Q. I want to go back to -- so let me make sure
20 I understand this correctly, okay. The old paperwork
21 was the same paperwork as the new paperwork?

22 A. To my knowledge, yes. And when the new
23 paperwork got there, it got there with two different
24 individuals that pushed the issue for him to be hit.

25 Q. Tell me a little bit more about that.

1 A. They just said: Here it is. What's taking
2 so long, "Lazy"? You've got the order to handle
3 this. Why haven't you handled this? So "Lazy" went
4 on and passed the order for him to get hit.

5 Q. Who did he pass the order to?

6 A. "Dan Dan" Sanchez -- they all agreed. "Dan
7 Dan" Sanchez, Carlos Herrera, Juan Mendez, "Big
8 Shadow" and "BB" were all in the tabla. And that's
9 what happened. They pushed the issue for him to get
10 hit.

11 Q. Who brought the paperwork down? I think
12 you already answered that, and I'm sorry.

13 A. Archie and "Marijuano."

14 MR. CASTELLANO: Same objection, Your
15 Honor.

16 MS. BHALLA: I'm moving on.

17 Q. You testified earlier that you first began
18 meeting, or the first meeting that you had with Agent
19 Acee was in January; is that correct?

20 A. Yes, ma'am.

21 Q. And how long had you been in custody at
22 that point?

23 A. About a year and three months. A year and
24 two months -- a year and a month.

25 Q. So you'd been in custody a year and a half?

1 A. A year and a month.

2 Q. A year and a month, sorry. So you'd been
3 in custody a year and a month the first time you met
4 with Agent Acee?

5 A. Yes, ma'am.

6 Q. And am I right that STIU brought you in to
7 meet with Acee? Who brought you in to meet with
8 Acee?

9 A. STIU Gerardo.

10 Q. Who did you say?

11 A. STIU Gerardo at MDC county jail.

12 Q. Okay.

13 A. That's in Albuquerque, New Mexico.

14 Q. And do you remember if any other officers
15 were present?

16 A. I don't remember.

17 Q. Okay. Do you remember how many people were
18 in the room?

19 A. All I know is there was two agents with
20 Bryan Acee, and that was it.

21 Q. Okay. Do you know if they were male or
22 female?

23 A. They were all male.

24 Q. Did you give Agent Acee any information at
25 that initial meeting, the very first one?

1 A. I told him what I could do for him on the
2 Molina murder. And what I was willing to do for him
3 was work for him and get wiretaps on murders. If I
4 can get people talking about old murders, new
5 murders, whatever, just murders.

6 Q. Okay. So you didn't tell him that you were
7 going to tie Carlos Herrera and Rudy Perez into the
8 Molina homicide?

9 A. Yes, I did.

10 Q. Okay. And how exactly did you tell him
11 that?

12 A. I told him there is two people that still
13 haven't been convicted on that murder.

14 Q. Okay.

15 A. And he asked me who, and I told him.

16 Q. Did you give him any other names?

17 A. At that time, no, ma'am.

18 Q. Okay. And when did you meet with him
19 again?

20 A. Approximately two days later.

21 Q. And still at MDC?

22 A. Yes, ma'am.

23 Q. Okay. And what happened at that meeting?

24 A. I told him what I could do for him. And he
25 explained to me more or less the policies of the FBI.

1 He said that they don't give me drugs to give people.
2 They don't want lies. They don't want -- what they
3 want is the truth. They don't create perjury, or
4 none of that, so they want the truth. If I can't get
5 them the truth on murders, then there is no reason
6 for him to work with me.

7 Q. So did Agent Acee specifically tell you he
8 wasn't going to give you drugs?

9 A. Yes, he explained the policies. He said
10 the FBI don't give people drugs to go do things with
11 drugs. They don't -- ran me down the policies -- if
12 you're going to work, this is how it has to be.

13 Q. Okay. Did you tell Agent Acee that you
14 wanted drugs? What prompted him to give you that --
15 to tell you that?

16 A. Probably just running me down the policies.
17 That way, I wouldn't do something that would
18 jeopardize his case.

19 Q. Okay. What was your agreement? If you
20 provided the information, what were you going to get
21 out of it?

22 A. Immunity to anything that I had ties with
23 the SNM.

24 Q. So you didn't want a reduction in sentence?

25 A. I'm not asking for nothing.

1 Q. You didn't ask him for a single thing?

2 A. No, ma'am.

3 Q. Okay. You testified previously that you
4 were next to Rudy Perez first?

5 A. Yes, ma'am.

6 Q. And then you got moved next to Carlos
7 Herrera afterwards?

8 A. Yes, ma'am.

9 Q. So you weren't next to them at the same
10 time?

11 A. No, ma'am.

12 Q. Did you meet with Agent Acee again after
13 that second meeting, after he gave the instructions?

14 A. After he gave me the instructions? What do
15 you mean? Clarify that question.

16 Q. Well, we talked about the first meeting and
17 the second meeting. And the second meeting you
18 indicated that he sort of told you what the rules
19 were, if you will. Is that fair to say?

20 A. I passed on the recordings to an STIU
21 officer, and he gave it back to Bryan Acee.

22 Q. How many times did you meet with Agent Acee
23 before you were given the recorder?

24 A. One time.

25 Q. So you only met with him one time prior to

1 getting the recorder?

2 A. Yes, ma'am.

3 Q. Was it a wire, or was it like a little
4 hand-held recorder?

5 A. It was a hand-held little box that you turn
6 off and on, had AAA batteries.

7 Q. Okay. When you were placed next to Carlos,
8 did anyone ever search your cell?

9 A. Yes, ma'am -- no, not Carlos. When, yes,
10 the STIU went in there, they acted like they searched
11 my cell, and they left a recording device.

12 Q. Explain to me how you got the recording
13 device?

14 A. That was with Perez. Cupit, STIU Cupit,
15 went into my cell, acted like he was searching it.
16 He left the recording device for me.

17 Q. Okay. So you got two separate recording
18 devices for each -- one for Rudy Perez, one for
19 Carlos Herrera?

20 A. From my recollection, it was two different
21 times, yes.

22 Q. Okay. So the first time was for Rudy
23 Perez?

24 A. Yes, ma'am.

25 Q. Okay. And I will probably let Mr. Villa

1 ask you about that, okay? I'm going to ask you about
2 the recording device that you were given with Carlos,
3 okay? When were you given the recording device for
4 Carlos?

5 A. The same day I arrived to the South.

6 Q. The same day you arrived to South, okay.
7 And how did you get the recording device then? Is
8 that when Cupit gave it to you?

9 A. Cupit gave it to me then.

10 Q. And it was under the guise of a cell
11 search?

12 A. No, ma'am. He gave it to me when I was
13 entering into the cell.

14 Q. Okay. So he just handed it to you?

15 A. Yes, ma'am.

16 Q. Where were you?

17 A. I was coming back from, I believe, court at
18 that time.

19 Q. So did he give it to you on the van?

20 A. Yes, ma'am. When he was strip searching
21 me, he gave it to me. And I took it back with me to
22 the unit.

23 Q. Okay. And did any of the correctional
24 officers know that you had it?

25 A. No, ma'am.

1 Q. Who knew that you had it besides Acee and
2 Cupit?

3 A. Nobody.

4 Q. And how long did you have it?

5 A. About two or three weeks.

6 Q. Okay. And how many times do you think that
7 you recorded Carlos?

8 A. Probably about seven, eight times, if not
9 more.

10 Q. Seven or eight times?

11 A. That's a lot.

12 Q. Over the course of, you said, two weeks?

13 A. Yes, ma'am, about two or three weeks.

14 Q. Two or three weeks?

15 A. From my recollection.

16 Q. During the time that you had the recorder
17 in your cell, with Carlos next to you, did anybody
18 ever -- did you ever turn the recording device in
19 periodically, or did you have --

20 A. No, ma'am. I had it the whole time.

21 Q. Okay. And during the time that you were
22 next to Carlos, did anyone search your cell?

23 A. Yes, ma'am.

24 Q. Who searched your cell?

25 A. By that time STIU had already came and

1 picked up the recording device on "Lazy," you get
2 what I'm saying?

3 Q. Yes.

4 A. And they'd given me a second recording
5 device. We had switched it out through the trays.

6 Q. Through the food trays?

7 A. Yes, ma'am. Then after that, they came and
8 they searched, the other COs, and they found the
9 second recording device I had for "Lazy." At that
10 time they transported me out of there.

11 Q. Okay. So during the time that you had the
12 first recording device, no one searched your cell?

13 A. No, ma'am.

14 Q. And no one came to check it?

15 A. No, ma'am.

16 Q. And you didn't have any conversations with
17 Acee?

18 A. No, ma'am.

19 Q. And you didn't have any conversations with
20 Cupit, or anybody from STIU?

21 A. No, ma'am.

22 Q. Okay. And then you got a second device
23 while you were still next to Carlos?

24 A. Yes, ma'am.

25 Q. And was that device the same, or was it

1 different?

2 A. More or less the same. It had AAA
3 batteries, and it had an on and off button.

4 Q. Did you look to see if there was date on
5 it?

6 A. No, ma'am. It was just all silver.

7 Q. Silver. Did it have a digital display?

8 MR. CASTELLANO: Objection, Your Honor.
9 May I ask that the witness not answer questions
10 related to the device itself.

11 THE COURT: Well --

12 MR. BECK: Your Honor, if I may, I think we
13 may tread lightly. I think his answer, I expect,
14 will be the same as what we heard from Special Agent
15 Williamson.

16 THE COURT: I'm not sure I heard the answer
17 to this.

18 MR. BECK: I think I elicited that
19 testimony with Special Agent Williamson.

20 THE COURT: Okay. All right. Why don't we
21 take these one at a time, so we -- if we do this: Is
22 there any objection to this specific question?

23 MR. BECK: There is not, Your Honor.

24 THE COURT: Answer this question. Then
25 we'll take them one at a time.

1 A. To my recollection, I can't remember.

2 Q. Okay. So how did you know it was
3 recording?

4 A. Because when you hit the switch, the light
5 would beep, and then you would wait for it to go off.
6 The light would go red, then you wait for it to go
7 off, then you would start recording. And when things
8 were being said, the light, it will go off and on.
9 So you knew when things were being said. That's how
10 you knew, I could hear them, you know what I'm
11 saying?

12 Q. Did it make an actual noise?

13 A. To my recollection, kind of like a little
14 hmmm, kind of thing, but real dim.

15 Q. Like the noise of a motor?

16 A. Like a recorder, like when you're hearing a
17 recorder on. And when someone would speak, the light
18 would flash so you knew that it was catching what
19 they were saying.

20 Q. So the light would flash, but it wasn't
21 making a noise with the flashing?

22 A. No.

23 Q. Okay. And the times that you were talking
24 to Carlos, did you notice that the light was
25 flashing?

1 A. Yes, ma'am.

2 Q. Okay. So you're pretty confident that the
3 conversations were recorded?

4 A. Yes, ma'am.

5 Q. And were you pretty close to him in
6 terms -- you guys were communicating through the
7 vent?

8 A. Yes, ma'am.

9 Q. So did you hold the recording device right
10 up to the vent?

11 A. Yes, ma'am.

12 Q. And could you understand everything that
13 Carlos was saying?

14 A. Yes, ma'am.

15 Q. And you felt that it was easy to
16 understand?

17 A. Yes, ma'am.

18 Q. Okay. And tell me again how you got the
19 second device.

20 A. I got the second device through the food
21 tray.

22 Q. Through the food tray?

23 A. Yes.

24 Q. And did you -- was it sort of a
25 simultaneous exchange --

1 A. Yes, ma'am.

2 Q. -- the first device?

3 A. They gave me the first, they gave me the
4 second.

5 Q. On the same food tray?

6 A. Through different food trays.

7 Q. Okay. On the same day?

8 A. Yes, ma'am.

9 Q. At the same time?

10 A. Not at the same time. Different times.

11 Q. So when did you -- when did you give the
12 first device?

13 A. I gave it to them for lunch. And then I
14 had food trays, because they were serving us
15 styrofoam because we were on lockdown because of an
16 escape. And a second one came when they came back
17 down for a trash run; that's when they gave me back a
18 second device.

19 Q. And how long was the trash run after lunch?

20 A. Probably about 20 minutes.

21 Q. Twenty minutes. How did you know to give
22 the device through the food tray?

23 A. Because he signaled me.

24 Q. How did you know what the signal would be?

25 A. I gave him a thumbs up that I had what he

1 needed on the recorder. And he said, "All right.
2 The tray" -- pointed at the tray.

3 Q. And who was that?

4 A. That was "C Boy" from STIU. "C Boy,"
5 that's all I know him by.

6 Q. "C Boy"?

7 A. Yes.

8 Q. You don't know his real name?

9 A. No, ma'am.

10 Q. How did you know -- how did "C Boy" know
11 that that was the signal?

12 A. Common sense.

13 Q. Well, you had to know that "C Boy" was the
14 one who was going to take the recording, right?

15 A. When you go, like I was doing something, I
16 was looking for every little signal, you know what
17 I'm saying? I'm in a tense environment.

18 Q. So you never met with "C Boy" ahead of
19 time?

20 A. I'm not understanding your question.

21 Q. Well, what I'm trying to ask you is: You
22 communicated with "C Boy" in a quiet fashion?

23 A. I gave him a thumbs, and he tells me, "The
24 tray."

25 Q. Okay.

1 A. Him and Cupit had came to pass out trays,
2 STIU Cupit. So when I gave him the thumbs up, he
3 pointed to the tray at my window, giving it to me
4 through the food port.

5 Q. Was "C Boy" a corrections officer, or --

6 A. STIU officer.

7 Q. Okay. And you recognized him as an STIU
8 officer?

9 A. Yes.

10 Q. And did you meet with "C Boy" at the same
11 time that you met with Acee?

12 A. Yes, ma'am. He was in the room with us as
13 well.

14 Q. Okay. Do you remember what other STIU
15 officers were in the room?

16 A. Cupit, Sapien, just STIU.

17 Q. Okay. You don't -- okay. When you were
18 given the second device through the trash tray, was
19 it basically the same as the first device, or was it
20 different?

21 A. More or less, but a little bit bigger.

22 Q. A little bit bigger?

23 A. Yes, ma'am.

24 Q. Did it function the same way?

25 A. Yes, ma'am.

1 Q. Okay. With the light and the hum?

2 A. Yes, ma'am.

3 Q. And you felt confident with that device
4 that it was recording everything that you guys were
5 talking about?

6 A. Yes, ma'am.

7 Q. And the same thing with the second device,
8 you were close to the vent?

9 A. The second device, I never recorded
10 nothing.

11 Q. Oh, you never recorded anything on the
12 second device?

13 A. No, ma'am.

14 Q. Why is that?

15 A. Because the next day they shook down. And
16 I couldn't get Carlos to say anything else.

17 Q. When you say, "the next day they shook
18 down," did the correction officers toss your cell?

19 A. Yes, ma'am. They came and shook down the
20 whole unit.

21 Q. Okay. And they found the recording device
22 at that time?

23 A. Yes.

24 Q. And what did they say to you when they
25 found it?

1 A. "What is this?"

2 Q. And what did you say?

3 A. "I don't know."

4 Q. Did they write you up for it?

5 A. No, ma'am. I told them it was a battery
6 pack. By then, they took me to the front, and pretty
7 much, the STIU had came down and told me, "This is
8 what it is."

9 Q. So they intervened on your behalf?

10 A. More or less, yes, ma'am.

11 Q. Okay. So you never got a sanction for
12 that?

13 A. No, ma'am.

14 Q. Okay. And after that, where did you go?

15 A. I went, I believe, to MDC county.

16 Q. Okay. And how long did you stay there?

17 A. About two months.

18 Q. About two months. Okay. And what happened
19 after that?

20 A. I went -- I was sentenced, and I came back
21 to prison. And I went back to PNM North.

22 Q. Did you ever get put in the cooperator pod?

23 A. What do you mean?

24 Q. Well, are you aware of who the other
25 government informants are in this case?

1 A. More or less.

2 Q. Okay. Were you placed in the same similar
3 pod as those guys?

4 A. Yes, ma'am.

5 Q. Okay. When you were recording Carlos, did
6 he ever say he authorized the hit?

7 A. I got him to admit to it indirectly.

8 Q. Okay. I'm asking you a pretty specific
9 question here.

10 A. Yes, he admitted.

11 Q. Okay. So Carlos said to you: I authorized
12 the Molina hit?

13 A. Yes.

14 Q. Okay. How many times did he say that?

15 A. What he said is, "Rats, fools that rat need
16 to go. And that's what we're all agreeing on the
17 tabla." He was talking to me about the tabla, how
18 everybody is on the same page with the tabla.

19 Q. Did he use the word "Javier Molina" in that
20 sentence?

21 A. I was telling him about Javier Molina.

22 Q. How many times has Javier Molina been
23 suspected as a rat?

24 A. To my recollection, just that once.

25 Q. Just that one time? There were no other

1 times?

2 A. Not that I know of, Miss.

3 Q. How many SNM homicides have been related to
4 ratting?

5 A. Ratting, numerous.

6 Q. Numerous. And did Carlos Herrera ever take
7 responsibility for those hits?

8 A. From my recollection, I know he cooperated
9 one other.

10 Q. Okay. And which one was that?

11 A. "Bobaloo," Bobbie Ortega in Hobbs.

12 Q. Did you talk to him about that homicide
13 while you were in the cell next to him?

14 A. No, ma'am. I never got that on the
15 recorder, I believe.

16 Q. Okay. Did you get any other admissions on
17 the recorder?

18 A. Explain yourself.

19 Q. From Carlos Herrera, about the Molina
20 homicide?

21 A. I'm still not understanding.

22 Q. Well, you said that Carlos took
23 responsibility for the Molina homicide by talking
24 about taking care of rats; is that correct?

25 A. Yes, ma'am.

1 Q. And being on the tabla; is that correct?

2 A. Yes, ma'am.

3 Q. Did he make any other statements?

4 A. To my knowledge, just explaining the rules
5 of the onda, what he felt the policy should be, what
6 him and the tabla thought how everything should be
7 ran, and how other members should be X'd out for
8 messing up, other high ranking members. That was it.

9 Q. Is it fair to characterize that as
10 political talk?

11 A. Yeah, it is political talk.

12 Q. Okay.

13 A. That's how things get done, Miss. It's
14 politics, politic in onda, whether it's right or
15 wrong, what that tabla says, it goes. That's why I'm
16 here today doing what I'm doing, you know what I'm
17 saying?

18 Q. What was your role in the SNM?

19 A. I was a soldier.

20 Q. Okay. And what does that mean?

21 A. I did whatever the SNM asked me to do.

22 Q. Did you ever take any part in the decision
23 making?

24 A. No, ma'am. I wasn't that high up.

25 Q. Okay. Were you ever able to get Suboxone

1 when you were in custody?

2 A. No, ma'am.

3 Q. Never, not once?

4 A. No, ma'am.

5 Q. What about other drugs?

6 A. What do you mean in custody?

7 Q. Did you ever have or use drugs as an inmate
8 in custody?

9 A. Yes, ma'am.

10 Q. Okay. When?

11 A. All the time.

12 Q. All the time?

13 A. Yes, ma'am.

14 Q. How did you get them?

15 A. Got them from visits, mostly through
16 visits.

17 Q. Who would bring them to you?

18 A. Well, other people would hit -- we call
19 them mules, so they would use them to hit their
20 drugs, and then we just do -- just get our cut.

21 Q. Did you have anyone that brought it in for
22 you in visits?

23 A. Yeah.

24 Q. Who brought it in for you?

25 A. Different people, "Baby G," Antoine Gomez.

1 But mostly it was for -- that was it. And I would
2 use, like, from Carlos Herrera, he would hit a lot of
3 drugs. I would use from him. I would just mostly
4 get a cut from other big time, what we call carnals,
5 brothers, that would hit. And I would get a cut.
6 They'd send me an issue once in a while, you know
7 what I mean?

8 Q. Why did you get a cut? Why were you
9 getting it?

10 A. Because I was a soldier.

11 Q. Okay. And so that was sort of payment?

12 A. Well, it's in the family. Most carnals get
13 an issue from what's going in.

14 Q. Okay. Were you getting drugs in custody
15 when you were at MDC?

16 A. No, ma'am.

17 Q. You never got any drugs while you were in
18 custody at MDC?

19 A. No, ma'am.

20 Q. When you were next to Carlos, did you ever
21 get any drugs when you were in custody then?

22 A. No, ma'am.

23 Q. Did you ever get written up while you were
24 in custody for having drugs?

25 A. Yes.

1 Q. Did you ever get written up while you were
2 in custody for providing dirty UAs?

3 A. Yes, ma'am.

4 Q. Do you know when that happened?

5 A. Yes, ma'am.

6 Q. When?

7 A. It happened -- I believe one happened back
8 in 2012 -- no, no, no -- yeah, 2012 -- I had one for
9 possession of doing dangerous drugs, and another for
10 dirty urine. And then, in 2016, I believe I had one
11 for dirty urine, for pills. And then recently
12 something came through the mail, but the STIU looked
13 into it and looked into it, and they just seen --
14 they don't know what it was.

15 Q. Say that again. They didn't see what it
16 was?

17 A. They don't know who sent it or how it got
18 sent. It had a return address. And I never get mail
19 where I'm at. So they checked the mail logs. They
20 checked the phone call history. And they see that I
21 don't ever make a phone call longer than five, 10
22 minutes. And I never talk about no drugs.

23 Q. You never talked about drugs on any of your
24 jail calls?

25 A. No, ma'am.

1 Q. Not once? Not ever?

2 A. No, ma'am.

3 Q. Okay. I'm going to show you a disciplinary
4 log that we got for you, that I think is going to
5 detail some of your use or possession or UA history.
6 Do you mind -- I'm going to put it right up here.
7 Can you see that on your screen there? Can everybody
8 else see it?

9 A. Yes, ma'am.

10 Q. Is that your name at the top left corner?

11 A. Yes, ma'am.

12 Q. And does that look like it's an accurate
13 representation of your disciplinary history?

14 A. Yes, ma'am.

15 Q. Is anything missing?

16 A. No, ma'am.

17 Q. Okay.

18 A. Yes, ma'am. Something missing in the mail,
19 like I said, and they investigated it. And like I
20 said, they went back, they checked all my phone logs,
21 because I'm way on the other side of the state. I
22 never talked about drugs. They checked my mail logs.
23 I never get mail. Once a month, that's it.

24 Q. You just said they recently investigated
25 your mail.

1 A. Yes, ma'am.

2 Q. Why did they investigate it?

3 A. Because something suspicious had came
4 through the mail. And they looked into it, and they
5 said that they were going to investigate it. And
6 they did. And they seen that. It looked suspicious.

7 Q. What about it looked suspicious?

8 A. It looked like someone was sending me
9 something that wasn't -- you know what I mean -- that
10 I wasn't supposed to get, you know what I'm saying?
11 In other words, they sent me something like, saying I
12 was --

13 Q. Contraband?

14 A. Yes, ma'am.

15 Q. What kind of contraband?

16 A. I don't know. They just said they were
17 investigating it. They never told me. They never
18 got back to me.

19 Q. And this was in 2017?

20 A. Yes.

21 Q. Did you get disciplined for it?

22 A. No, ma'am.

23 Q. And you don't know what the contraband was?

24 A. No, ma'am, because it was through the mail.

25 And it was never in my possession. And they went

1 back, they checked my phone logs. I was never
2 talking about drugs. They checked my mail, my mail
3 logs. They seen that I never got mail like that
4 before. So the facility checked into it.

5 Q. Earlier, you talked about how after the
6 Molina homicide you guys got put down because there
7 was an investigation pending, right?

8 A. Yes, ma'am.

9 Q. Did you ever go to a hearing on that issue?
10 Did they ever present you with any evidence that you
11 were involved in the investigation?

12 A. This is what it was, Miss. They gave us a
13 hearing, and they had us sign a paper saying that we
14 were under Internal Level 6 investigation, because
15 they didn't know if there was more people that were
16 going to get murdered.

17 Q. Okay. And did they do anything like in
18 2017, when contraband was sent to you at the jail,
19 that you never received?

20 A. Well, what they did is they came, and they
21 notified me, and they said, "This is going to be
22 investigated, and if we find out that you had
23 something to do with this, you're going to get a
24 disciplinary action." So they went back and they
25 investigated it, and they said, "There is nothing

1 there."

2 Q. Who said they were going to investigate it?
3 STIU, or --

4 A. No, the director of the program where I'm
5 at.

6 Q. Who is that?

7 A. Hastings.

8 Q. Hastings?

9 A. Yes, ma'am.

10 MS. BHALLA: Your Honor, I'm going to go
11 ahead and move this into evidence. And I need to get
12 an exhibit sticker, if you can just excuse me.

13 THE COURT: All right.

14 MS. BHALLA: Your Honor, at this time, I'm
15 going to move into evidence Exhibit CH-B. I do have
16 a clean copy which I can provide. I'm sorry that I
17 wrote on this when I wasn't supposed to.

18 THE COURT: Any objection, Mr. Castellano?

19 MR. CASTELLANO: May have a look at it,
20 Your Honor? I don't believe I have an objection.

21 No objection, Your Honor.

22 THE COURT: Anybody else have an objection?
23 Not hearing any, Carlos Herrera's Exhibit B will be
24 admitted into evidence.

25 MS. BHALLA: Thank you, Your Honor.

1 Q. Mr. Herrera, how often did you use drugs
2 when you were in custody? Daily? Weekly? Monthly?
3 Give me an approximation.

4 A. Depends when we had it. Sometimes we had
5 it, sometimes we didn't. It just depends the way the
6 environment was going. Sometimes we had access to
7 visits. Most times we didn't have access to the
8 visits. It just depends on what was going on at the
9 time. So, yeah, there was time where six months we
10 wouldn't have nothing, and then there was a time
11 where we went six months we did have something.

12 Q. And when you did have it, how often would
13 you use it?

14 A. Every day.

15 Q. Multiple times a day?

16 A. Yes, ma'am.

17 Q. Did you ever talk to Agent Acee about that?

18 A. Yes, ma'am.

19 Q. About the fact that you used drugs?

20 A. Yes, ma'am.

21 Q. When did you have that conversation with
22 him?

23 A. Well, he let me know that he didn't want me
24 doing that no more, you know what I mean?

25 Q. When did he let you know that?

1 A. He wanted me to clean up and get my life
2 right. If I'm going to be -- he wanted me to do good
3 for myself.

4 Q. When did he tell you that?

5 A. When we first met, he explained to me,
6 like, Look, I want you to do good.

7 Q. Did you tell him about your drug problem
8 then?

9 A. Yes, ma'am.

10 Q. So the first time you met with Agent Acee,
11 you talked to him about the fact that you were a drug
12 addict?

13 A. No. We didn't talk about drug addict, but
14 I think he more or less knew, you know what I mean?

15 Q. How did he more or less know? What did you
16 tell him?

17 A. I didn't tell him nothing. I just told him
18 we get drugs, we use drugs, we're all drug addicts.
19 He didn't sit down and talk to me: Do you have a
20 drug problem, you know what I mean? I told him
21 straight up: That's what we do, we extort drugs, we
22 use drugs and we sell drugs.

23 Q. Okay. And I get that it wasn't a
24 counseling session. I'm not trying to imply that it
25 was.

1 A. That's why I'm getting confused at.

2 Q. What I'm asking you is what information you
3 told him about your drug use at the meeting?

4 A. Yeah. I told him that that's what we are,
5 basically, mostly drug addicts; that's what we kill
6 for. That's basically what we stand for, drugs and
7 money.

8 Q. Okay. Did you ever sign an agreement with
9 the government, a formal agreement about your
10 cooperation?

11 A. Just a Kastigar letter. That was it.

12 Q. When did you receive that?

13 A. When they first got me an attorney.

14 Q. And when was that?

15 A. Back in, I would say, May.

16 Q. Of 2017 or 2016?

17 A. May of 2016, 2017; something like that.

18 Q. So after you did the recordings is when you
19 got the Kastigar letter?

20 A. Yes, ma'am.

21 Q. Did you receive any payments for your
22 services?

23 A. I got like 50 bucks a month, so like,
24 living expenses, just so I could have for myself, you
25 know what I mean?

1 Q. When did you start getting those?

2 A. Probably like -- I want to say, like, 2016,
3 July, or something, or --

4 Q. After the recordings or before the
5 recordings?

6 A. After.

7 Q. Okay. And did any of that money go to your
8 wife, Crystal?

9 A. No, ma'am.

10 Q. Okay. And did you ever talk to Crystal
11 about your cooperation?

12 A. Yes, ma'am.

13 Q. Okay. And did you talk to her over the
14 phone about that?

15 A. Yes, ma'am.

16 Q. Do you know whether or not Agent Acee ever
17 talked to Crystal about your cooperation?

18 A. No, ma'am.

19 Q. Do you know if Crystal ever talked to Agent
20 Acee?

21 A. Yes, ma'am.

22 Q. And when did that happen?

23 A. When she was in fear for her life.

24 Q. And when was that?

25 A. Probably around -- she just wanted to know

1 if she had help, you know what I mean, if someone
2 went and tried to hurt her, back like around the same
3 time July, August.

4 Q. After the recording?

5 A. Yes, ma'am.

6 Q. Did Crystal talk to you about that?

7 A. Yes, ma'am.

8 Q. After you were finished with the recording
9 devices, and after you got moved out, did you meet
10 with Agent Acee after that?

11 A. What do you mean?

12 Q. Well, after you -- after you got passed the
13 second recording device through the food tray, right,
14 shortly thereafter, you were moved to another
15 facility?

16 A. We met with my lawyer.

17 Q. So what I'm trying to ask -- you didn't
18 meet with Agent Acee for -- until you got a lawyer?

19 A. Yes, ma'am.

20 Q. In May of 2016?

21 A. Yes, ma'am.

22 MR. CASTELLANO: Your Honor, I'm going to
23 object to this line of questioning. This is the line
24 of questioning following the recording, so it doesn't
25 have anything to do with the voluntariness of the

1 statements.

2 MS. BHALLA: Your Honor, if information was
3 given to Agent Acee in conversations about the
4 recordings and about the conversations and about what
5 was going on during this conversations, I do believe
6 that is relevant.

7 THE COURT: Well, I'm getting a little lost
8 on the timeframe here. I think we need to maybe
9 clean that up.

10 But let's don't do it now. Let's take our
11 afternoon break, let you come back in and establish
12 the timeframe. I'm getting a little confused as to
13 when you're talking about.

14 All right. We'll be in recess for about 15
15 minutes.

16 (The Court stood in recess.)

17 THE COURT: All right. Let's go on the
18 record. Make sure everybody has got a lawyer. I
19 think they do.

20 Mr. Cordova, I'll remind you you're still
21 under oath.

22 THE WITNESS: Yes, Your Honor.

23 MR. CASTELLANO: Your Honor, before we
24 proceed, what I'd like to do is just lodge my
25 objection so we avoided every conversation we had

1 with Agent Acee following the recordings. I mean, if
2 there are specific questions about people's
3 vulnerabilities, or something that goes to the
4 voluntariness of the statement, I understand that's
5 fair game. But to get into every conversation
6 following the recordings, I think we're getting a
7 little far out there.

8 THE COURT: Here's what I'm thinking, Ms.
9 Bhalla: I think -- and Mr. Castellano can speak for
10 himself -- I think everybody recognizes you probably
11 have a little bit of right to test the credibility of
12 the witness, you know. If you think that Mr. Acee is
13 telling him what to say and feeding him stuff then,
14 you know, you get to explore that a little bit.

15 But I agree with Mr. Castellano, I don't
16 think now is the time and place to go through every
17 conversation. So if you keep it general and do what
18 you've got to do as far as numbers and meetings and
19 stuff like that, I think probably Mr. Castellano
20 would probably agree that's probably fair game.

21 But as far as just a discovery of
22 everything that Mr. Acee and Mr. Cordova talked
23 about, probably not.

24 Can you fit your questions into something
25 that I'm inclined to allow?

1 MS. BHALLA: Yes, Your Honor. And I'll try
2 to be more focused in my questions. I think I got a
3 little confused about the timeframe as well, which is
4 why we may have gone so far afield.

5 THE COURT: All right.

6 BY MS. BHALLA:

7 Q. Mr. Cordova --

8 THE COURT: Hold on just a second. Who is
9 on the phone? I've been a little negligent about
10 making sure I know who is on the phone. Who is on
11 the phone right now?

12 MS. STRICKLAND: I'm on the phone. This is
13 Margaret Strickland.

14 MR. CASTLE: Jim Castle; I'm on the phone
15 as well.

16 THE COURT: Ms. Strickland, Mr. Castle.

17 Okay. Anyone else? All right. I'm only
18 hearing two people. So if somebody has got their
19 mute button on, we're not hearing you.

20 MS. HARBOUR-VALDEZ: Your Honor, it may be
21 our paralegal, Raquel Rodriguez.

22 THE COURT: Ms. Rodriguez, are you there?

23 MS. RODRIGUEZ: I'm here, Your Honor.

24 Thank you.

25 THE COURT: Okay. Anybody else. I've got

1 three people on the phone. If there is more than
2 three, you've got your mute button on, you haven't
3 entered an appearance?

4 All right. Ms. Bhalla?

5 MS. BHALLA: Thank you, Your Honor.

6 BY MS. BHALLA:

7 Q. After you provided the last recording
8 device to the STIU officer through the food tray, did
9 you meet with Agent Acee after that?

10 A. Yes, with my lawyer.

11 Q. Okay. So when you handed in the last
12 device, is it fair to say that that was in February
13 of 2016?

14 A. No, it was like in April or May.

15 Q. When you handed in the last recording
16 device?

17 A. Around April, I think it was.

18 Q. For Carlos Herrera?

19 A. Yes, ma'am.

20 Q. When were you placed next to Carlos
21 Herrera? What month?

22 A. I'm pretty sure it was April, Miss.

23 Q. Okay. So you were placed next to Carlos
24 Herrera in April?

25 A. Yes, ma'am.

1 Q. And so for approximately three weeks?

2 A. I don't know approximately, but around
3 there, three weeks, a month.

4 Q. Okay. So maybe not more than a month; is
5 that fair to say?

6 A. Yes, ma'am.

7 Q. And so immediately after that -- so if that
8 was in April, so then it would have been late April,
9 early May of 2016, when you were through with your
10 recording device with Mr. Herrera?

11 A. Yes, ma'am.

12 Q. Okay. And so then, in May of 2016, you sat
13 back down with Agent Acee and with your attorney?

14 A. Yes, ma'am.

15 Q. Okay. Did you provide information about
16 the recordings or the conversations that you had with
17 Mr. Herrera to Mr. Acee at that time?

18 A. With my lawyer?

19 Q. Yes.

20 A. Yes, ma'am.

21 Q. Did you talk to him about the statements
22 that you were able to get from Mr. Herrera?

23 A. At that time, I can't remember. But I
24 think he said that -- no, I don't think so. We sat
25 down, talked to my attorney; talked about, like,

1 that, yeah. So I don't think so. I don't remember,
2 to tell you the truth.

3 Q. Did you ever talk to Agent Acee about what
4 you got on the recording device when you were next to
5 Carlos Herrera?

6 A. I told him, "I did my best, and here's what
7 it is."

8 Q. When did you tell him that?

9 A. When we were with my lawyer.

10 Q. Okay. Do you know whether or not they
11 recorded that conversation with you?

12 A. I don't know, ma'am; pretty sure, probably,
13 more than likely.

14 Q. So, in May of 2016, you talked to Agent
15 Acee in a very limited fashion about the information
16 that you received from Mr. Herrera when you were
17 placed next to him?

18 A. It wasn't information. What was said, it
19 was more or less: What I told you I would get, it's
20 on there.

21 Q. Did you talk to Agent Acee any further
22 about the communications that you had with Mr.
23 Herrera?

24 A. No, ma'am.

25 Q. So you've never discussed that issue with

1 Mr. -- with Agent Acee again?

2 A. No, ma'am.

3 Q. Okay. When Mr. Castellano asked you about
4 a transcript that involved you -- I believe, Dale
5 Chavez and Carlos Herrera -- do you remember that?

6 A. No, what?

7 Q. A transcript?

8 A. About who asked me?

9 Q. Mr. Castellano, the AUSA.

10 A. I remember him asking him now, yes.

11 Q. Okay. I'm going to give you a copy of that
12 transcript, because I have couple of other questions
13 for you about that. Okay?

14 A. All right, Miss.

15 MS. BHALLA: Your Honor, may I approach?

16 THE COURT: You may.

17 Q. Is that the same transcript that Mr.
18 Castellano talked to you about?

19 A. Just now?

20 Q. Well, on direct examination, before I got
21 up.

22 A. Yes, ma'am.

23 Q. Do you see the little numbers at the bottom
24 right of the page?

25 A. Yes, ma'am.

1 Q. Okay. I'm going to go on the first page,
2 which is 20999, that's the Bates number, just so you
3 know where we are.

4 A. I don't understand.

5 Q. Okay. I'm just trying to show you --

6 A. I understand what you're saying, 0999?

7 Q. I just want to make sure we're on the same
8 page.

9 A. Yes, ma'am, we're on the same page.

10 Q. Okay, good. So you testified, I believe,
11 that at the time that you were meeting with Carlos
12 Herrera, or the time you were next to him, you'd
13 already been in custody for a year and a month; is
14 that correct?

15 A. About a year and a couple months.

16 Q. Okay. So roundabout. So a year and a
17 couple months?

18 A. Yes, ma'am.

19 Q. So you hadn't been --

20 A. I was around about a year and a month.
21 Herrera was around a year and a few months.

22 Q. Okay. But you had been in custody for a
23 year and a month or a year in two months?

24 A. A year and a few months.

25 Q. Okay. And you testified that this was the

1 price for street drugs; is that correct?

2 A. No. We were both talking about the price
3 of street drugs, okay?

4 Q. Okay.

5 A. And he tells me eight, 10, or 12. And
6 we're -- I'm talking about buying Suboxone from him.

7 Q. Okay. So you were trying to buy from
8 Mr. Chavez?

9 A. Yes, ma'am.

10 Q. Okay. At that time?

11 A. Yes, ma'am.

12 Q. Okay. And is it fair to say that, if you
13 go -- do you see how on the paper there are little
14 blocks -- I should say rectangles -- that contain the
15 text?

16 Here, I think it might be easier if I just
17 put this on the Elmo. Can you see the screen okay,
18 if I put this up here?

19 A. Yes, ma'am.

20 THE COURT: Mr. Castellano?

21 MR. CASTELLANO: I just recommend that we
22 do that. There is no jury here, so we don't need to
23 worry about that.

24 MS. BHALLA: I'm just not used to this yet.

25 Q. If you look at this line right here -- and

1 I believe that's Mr. Chavez speaking; is that
2 correct? "You still get me for ten?" Question?

3 A. Yeah.

4 Q. Did Mr. Chavez make that statement?

5 A. Yes, ma'am.

6 Q. And was that directed at you?

7 A. Yes, ma'am.

8 Q. Okay.

9 MS. BHALLA: Your Honor, if I can just have
10 one moment, I think that I'm probably through.

11 THE COURT: All right. Certainly.

12 MS. BHALLA: Oh, actually, before I do
13 that, Your Honor, I want to move this transcript into
14 evidence. And I believe that would be CH-C.

15 THE COURT: Well, I'm not seeing a B.

16 MS. BHALLA: B is the disciplinary logs,
17 Your Honor.

18 THE COURT: All right. So this will be C.
19 Any objection, Mr. Castellano?

20 MR. CASTELLANO: No, Your Honor.

21 THE COURT: Anyone else? Not hearing any
22 objection, Carlos Herrera's Exhibit C will be
23 admitted into evidence.

24 MS. BHALLA: Okay. Now, if I can have just
25 a moment, Your Honor, I think I'm almost through.

1 THE COURT: Certainly.

2 MS. BHALLA: Thank you, Your Honor.

3 I'm going to pass the witness.

4 THE COURT: Thank you, Ms. Bhalla.

5 All right. Mr. Villa, are you next?

6 MR. VILLA: Thank you, Your Honor.

7 THE COURT: Mr. Villa.

8 EXAMINATION

9 BY MR. VILLA:

10 Q. Good afternoon, Mr. Cordova.

11 A. Good afternoon.

12 Q. If I understand it correctly, your role in
13 the SNM is a soldier?

14 A. Yes, sir.

15 Q. So you do whatever is asked of you by
16 members that are higher up in the SNM?

17 A. Yes, sir.

18 Q. Does that include assaulting people?

19 A. Yes, sir.

20 Q. And you might have to just get at little
21 bit closer to the mic when you answer, you can scoot
22 your chair up; that way everybody can hear you.

23 So that was a yes?

24 A. Yes.

25 Q. When did you become a member of the SNM?

1 A. About 2003.

2 Q. 2003?

3 A. I was a posfate (phonetic) in 2000, and I
4 became a carnal in 2003.

5 Q. When you become a carnal, that means you're
6 a member of the SNM, right?

7 A. Yes, sir.

8 Q. When you first became a member, did you
9 stay a soldier?

10 A. Yes, sir.

11 Q. As part of being a soldier, when there is
12 drugs in the prison, if I understand your testimony
13 correctly, you get to have some of those drugs?

14 A. Yes, sir.

15 Q. And you use them?

16 A. Yes, sir.

17 Q. And I think you testified that's kind of
18 what you guys do: You get drugs and you use the
19 drugs, right?

20 A. Use drugs, sell drugs, yeah.

21 Q. You're all addicts?

22 A. Yes, sir.

23 Q. And drugs include typical street drugs,
24 like heroin, cocaine, and such things?

25 A. Yes, sir.

1 Q. And Suboxone, too?

2 A. Yes, sir.

3 Q. So you've used Suboxone?

4 A. Yes, sir.

5 Q. You had it provided to you before by
6 others?

7 A. Yes, sir.

8 Q. When you use Suboxone, it gets you high?

9 A. When you're clean from heroin, yes.

10 Q. But when you're not clean on heroin, it
11 doesn't?

12 A. No. It depends how long you've been
13 without heroin. Have to be usually 36 hours without
14 any opioids in your body. If you take it 36 hours
15 before, then you get sick; you get what I'm saying?

16 Q. Yeah.

17 A. I'm saying, if I just used heroin or pills
18 right now, I have to wait 36 hours, you get what I'm
19 saying?

20 Q. Yeah, if you take it within 36 hours, you
21 take Suboxone, within 36 hours --

22 A. You get sick, you go through withdrawals.

23 Q. Got it. But if you wait that 36 hours from
24 taking heroin or pills, then you can get high from
25 Suboxone?

1 A. Yes, sir.

2 Q. And when you get high, what does that feel
3 like?

4 A. Same thing.

5 Q. Similar to heroin?

6 A. Yes, sir.

7 Q. When you said pills, you're talking about
8 like opiate pills?

9 A. Yes, sir.

10 Q. Prescription pills, things like that?

11 A. Yes, sir.

12 Q. Those were some of the things that you got
13 issued to you by other members of the SNM when you
14 were being a soldier?

15 A. Yes, sir.

16 Q. Do you also join -- did you also join the
17 SNM for protection?

18 A. No, sir.

19 Q. Why did you join the SNM?

20 A. Because I thought it was a brotherhood. It
21 was something that was respected. And that's what I
22 thought it was.

23 Q. You talked about the onda, or the destiny
24 of the SNM, right?

25 A. Yeah. I thought it was a brotherhood. I

1 thought guys were going to have your back. It's not
2 like that, though.

3 Q. Did it serve as protection, while you were
4 in the prison, to be a member of the SNM?

5 A. I didn't need protection.

6 Q. I mean, you could have still gotten
7 assaulted or attacked, but if other members --

8 A. We protect our own, yes.

9 Q. They protect each other?

10 A. Yes.

11 Q. Okay. So whether you need it or not, it's
12 a benefit you get from being in the SNM?

13 A. Yeah, I agree.

14 Q. In addition to being able to get drugs?

15 A. Yes, sir.

16 Q. When you decided to cooperate with Agent
17 Acee, it's my understanding that he told you he was
18 investigating you for RICO, right?

19 A. Yes, sir.

20 Q. And was going to prosecute you for RICO?

21 A. Yes, sir.

22 Q. Did he tell you the specific acts that he
23 was going to prosecute you for?

24 A. No, sir.

25 Q. Did he talk to you about murders that he

1 was investigating you for?

2 A. No, sir.

3 Q. But he told you, or at least you understood
4 that if you cooperated, you would have immunity from
5 anything you did as an SNM member?

6 A. Yes, sir. When I got my lawyer, yes, sir.

7 Q. What did you understand at the time you
8 spoke to Agent Acee, in January, that you were going
9 to get in exchange for your cooperation?

10 A. Well, nothing was set in stone. It was:
11 What can you bring to the table? It has to be
12 honest, it has to be clean.

13 Q. Did you believe you could avoid being
14 charged for RICO, if you did this cooperation?

15 A. Yes.

16 Q. And you also -- at some point you were
17 starting to get money on your books, right?

18 A. Yes. But I get more money from my family
19 than I got from them.

20 Q. All right. All right. What else did you
21 think you might be able to get if you cooperated
22 besides not getting prosecuted in this RICO?

23 A. Nothing. I didn't ask for nothing.

24 Q. Okay. And I guess it's fair to say you
25 didn't want to be prosecuted for RICO, right?

1 A. Yes, sir.

2 Q. That didn't sound so good to you?

3 A. You can say that.

4 Q. Now, if I understand it correctly, when you
5 have drugs available in prison, you would use them?

6 A. Yes, sir.

7 Q. I think you testified that you would share
8 them with your fellow members; correct?

9 A. Yes, sir.

10 Q. So, if you had Suboxone in prison, you
11 would use it?

12 A. Yes, sir.

13 Q. You would share it with your cellmates or
14 other people that you were being incarcerated with?

15 A. Yes, sir.

16 Q. When you use Suboxone, how much would you
17 use?

18 A. It just depends what you're using. It goes
19 up, it goes down.

20 Q. So Suboxone comes in little strips?

21 A. Yes, sir, or pills.

22 Q. Let's talk about strips. If you have a
23 strip, how much of a strip do you use to get high?

24 A. You can use a quarter of that strip, a half
25 of that strip, or a whole strip. It just depends on

1 your tolerance.

2 Q. Everybody is a little different?

3 A. Yes, sir.

4 Q. Now, are you still using drugs?

5 A. No, sir.

6 Q. When was the last time you used?

7 A. The last time I used was probably when I
8 was on medication. But for something -- for some
9 medication that -- I don't know, that wasn't mine, so
10 I just stopped taking medication all in all, because
11 they will report to your pod. And what they do is
12 you can't see the medication you're taking. They
13 just just pop the pills. And there is about 600 guys
14 that got delivered to, and they just pop pills right
15 away, and they've got to crush it, and throw water in
16 it, so you can't see what you're taking, do you get
17 what I'm saying?

18 Q. Yeah.

19 A. They hand it to you. And there is many
20 times they make mistakes. So one of the times I was
21 UA, I came up dirty for pills. So I told them I
22 didn't want my pills no more.

23 Q. When was that?

24 A. This was back, like, in July.

25 Q. Of this year?

1 A. Yes, sir.

2 Q. Putting aside the prescription pill
3 issue -- I'm talking about illegal drugs -- when was
4 the last time you used an illegal drug?

5 A. An illegal drug, it's been a good minute.

6 Q. What is a good minute?

7 A. A "good minute" is like about a couple
8 years ago.

9 Q. A couple years ago?

10 A. Yes, sir.

11 Q. And you haven't used any illegal drugs or
12 nonprescribed drugs intentionally since then?

13 A. Yes, sir.

14 Q. So let's go now to the time in -- when
15 you're at MDC in January. And actually, let's go
16 back a little bit more from that. If I understand it
17 correctly, you got released from prison before that
18 January timeframe?

19 A. Yes, sir.

20 Q. In April of 2014?

21 A. Yes, sir.

22 Q. So that was about a month after the Molina
23 murder?

24 A. Yes, sir.

25 Q. And you were locked down from the time of

1 the Molina murder until you got released?

2 A. Yes, sir.

3 Q. When you get released, were you on parole?

4 A. Yes, sir.

5 Q. How long were you on parole?

6 A. Before I came back.

7 Q. So did you come back on a parole violation?

8 A. Yes, sir.

9 Q. Was the parole violation also the facts
10 that led to the murder charge that you got -- went to
11 trial on?

12 A. Can you clarify that?

13 Q. So did they violate your parole because you
14 picked up the murder charge?

15 A. Yes, sir.

16 Q. And the murder charge, ultimately, you were
17 convicted of manslaughter?

18 A. Yes, sir.

19 Q. After a trial?

20 A. Yes, sir.

21 Q. Did Agent Acee ever tell you he was looking
22 at you at that particular murder as an SNM murder?

23 A. No, sir.

24 Q. Did he ever tell you he was looking at you
25 for the murder of Sammy Chavez?

1 A. Later on, yes, sir.

2 Q. When was "later on"?

3 A. Later on, when I had my attorney, and we
4 started talking.

5 Q. All right. But not in January when you
6 guys decided to give you the recording device?

7 A. Yes, sir.

8 Q. So you were released in April; you pick up
9 the new charges; parole violates you; and then they
10 take you to MDC first? Or do you go to PNM,
11 ultimately?

12 A. No, I go to MDC; then I go to Central; then
13 I went to PNM.

14 Q. But then they're bouncing you back to MDC
15 because you've got to go to court?

16 A. Well, to Central, to PNM -- but like, in
17 November of 2015, they had canceled their contract
18 with Central, and I went back to MDC. So the last
19 two months I was at MDC, on my trial.

20 Q. The reason you're at MDC is because you
21 have your murder trial in Bernalillo County?

22 A. Yes, sir.

23 Q. And the reason they keep taking you back
24 and forth is because your parole had been violated?

25 A. Yes, sir.

1 Q. Previous to being at MDC in January, the
2 day you had the meeting with Agent Acee, you had been
3 at PNM for some periods of time in the fall; correct?

4 A. Yes, sir.

5 Q. Did you know that Rudy Perez was there at
6 the time?

7 A. Yes, sir.

8 Q. Had you spoken to him during that period of
9 time?

10 A. Yes, sir.

11 Q. Had you spoke to him about the Molina
12 murder?

13 A. No, sir.

14 Q. But just generally?

15 A. Yes, sir.

16 Q. All right. Did you understand -- before
17 you left Southern in April, to get released onto
18 parole, did you understand that Mr. Perez might have
19 been involved in the Javier Molina murder?

20 A. Yes, sir.

21 Q. How did you come to that understanding?

22 A. Because -- how everything was playing out.

23 Q. Explain that to me.

24 A. They needed to get shanks. And them people
25 were, like, don't get them from the wheelchair, you

1 know what I mean, because they didn't want to be
2 responsible for losing the wheelchair program. And
3 that's when people were like, just get them from his,
4 you know what I mean, from his walker?

5 Q. Did you hear about that before the Molina
6 murder or after?

7 A. I heard about it before and after.

8 Q. All right. And so there was discussions
9 about using Mr. Perez' walker instead of something
10 from the wheelchair program?

11 A. Yes, sir.

12 Q. Did you ever learn, before that meeting
13 with Agent Acee, whether Mr. Perez actually agreed to
14 let them take a piece from his walker?

15 A. Yeah, he agreed.

16 Q. No. I mean, I'm talking about before you
17 met with Agent Acee. Did you learn that Mr. Perez
18 agreed to that?

19 A. Yes, sir.

20 Q. How did you learn that?

21 A. I just told you. I heard before, and I
22 heard after the Molina murder.

23 Q. That Mr. Perez had agreed?

24 A. Yes.

25 Q. Who told you that?

1 A. I talked to "Dan Dan" through the door, and
2 he told me, "We already got a piece over here. We're
3 going to take care of this."

4 Q. This is before the murder?

5 A. Yes, sir.

6 Q. Did "Dan Dan" say: Rudy agreed to let me
7 take the piece?

8 A. Yes, sir.

9 Q. He said that?

10 A. He said, "We're just going to get it from
11 his walker. I already hit him up."

12 Q. Say the last thing again.

13 A. "I already hit him up," like I already
14 asked him.

15 Q. Got it. So you understood from that that
16 Rudy agreed?

17 A. Yes, sir.

18 Q. But "Dan Dan" didn't specifically say Rudy
19 had agreed?

20 A. He specifically said he agreed. That's our
21 lingo; that's the way we talk.

22 Q. When he said, "I already hit him up"?

23 A. Yes.

24 Q. That's your lingo?

25 A. Yes.

1 Q. Did you tell that to Agent Acee?

2 A. Pretty sure.

3 Q. All right. Other than that conversation,
4 did you have conversations with anybody else after
5 the fact that led you to believe Mr. Perez had
6 agreed?

7 A. Yes. When we were at the North, everybody
8 was talking. They even thought he was talking. They
9 were going to move on him because they thought he was
10 talking.

11 Q. They thought Mr. Perez was talking?

12 A. Yes. Because they said the shank came from
13 his walker, and they knew where the shank came from.
14 How did they know where the shank came from?

15 Q. This is what the guys are saying?

16 A. Yes.

17 Q. The guys in PNM?

18 A. Yes.

19 Q. And you knew that the first indictment had
20 actually happened in the fall of 2015, right, the
21 first federal indictment?

22 A. The first federal in the fall?

23 Q. Yeah.

24 A. You could say that.

25 Q. Well, you knew at least as of January

1 that --

2 A. Well, I was there in the MDC county jail,
3 the same thing, when they brought everybody in on the
4 RICO Act.

5 Q. Okay. So I was going to ask you about
6 that. Seg 3 is a pod in NMDC?

7 A. Yeah, it's a Seg pod.

8 Q. And they brought people in who had been
9 indicted in the first indictment of this case?

10 A. Yes, sir.

11 Q. And it did not include Mr. Perez?

12 A. Did not include Mr. Perez or Mr. Herrera.

13 Q. So you thought: Where are these two guys?
14 They're missing?

15 A. Yes, sir.

16 Q. Some of the other guys thought that, too?

17 A. Probably more or less. That's just the way
18 it is. They talk, that's the way it is.

19 Q. You used the term "they were going to move
20 on him," right, did I say that right?

21 A. You said that right.

22 Q. And so they were going to move on him,
23 meaning members of the SNM were going to move on Mr.
24 Perez, because they thought he was cooperating?

25 A. Yes.

1 Q. They thought he was the reason the federal
2 government knew the pieces came from his walker?

3 A. Not the federal government. When they
4 locked down the pod, they knew where it came from.
5 So they were thinking: How did they know where that
6 piece came from, you get what I'm saying?

7 Q. Yeah.

8 A. That's why.

9 Q. And those discussions were still being had
10 in PNM in the fall of 2015, right?

11 A. A little before that they were talking
12 about it in the yard. People would talk behind his
13 back. When they would see him there, they would talk
14 all cool with him, you know what I mean?

15 Q. Got it. Fast-forward to the times when
16 recorded him. That was in February 2016, right?

17 A. Yes, sir.

18 Q. You knew that Mr. Perez knew about these
19 rumors that he had cooperated, right?

20 A. Mr. Perez knew?

21 Q. Yeah.

22 A. About the rumors? Well, yeah, he told me,
23 Hit up "Pup" when they brought up "Pup" back from out
24 of state. And "Pup" said, "Don't worry about it,
25 carnal." Well, that's "Pup," he'll tell you whatever

1 you want to hear.

2 Q. So Mr. Perez was worried about it, right?

3 A. Yeah.

4 Q. He was concerned that they thought he was
5 an informant?

6 A. Yes, sir.

7 Q. You knew that?

8 A. Yes, sir.

9 Q. You talked to Mr. Perez about that?

10 A. Yes, sir.

11 Q. And you talked to him about that around the
12 time you were recording him; correct?

13 A. Yes, sir.

14 Q. And I think you used the term when you were
15 talking to Mr. Perez, "pressure points," right?

16 A. Yes, sir.

17 Q. You used pressure points?

18 A. Yes, sir.

19 Q. To help get him to talk about the Molina
20 murder?

21 A. Yes, sir.

22 Q. And you knew that that was one of the goals
23 of this investigation; that's what Agent Acee wanted
24 you to do was to get Mr. Perez to talk about the
25 Molina murder?

1 A. Well, I knew myself because I've been in
2 the game a long time, so I knew more or less what
3 they would want and what they wouldn't want.

4 Q. But Acee told you he wanted murders, right?

5 A. That was it.

6 Q. He didn't want other stuff, he wanted
7 murders?

8 A. He wanted murders.

9 Q. One of the things you thought you could
10 deliver to him was the Molina murder?

11 A. Yes, sir.

12 Q. So do you remember when you got moved from
13 MDC to PNM?

14 A. From MDC to PNM?

15 Q. Yes, sir. And I'm talking about right
16 after you meet with Acee in January, you get moved to
17 PNM at some point, right?

18 A. A matter of days.

19 Q. Just a matter of days?

20 A. Yes, sir.

21 Q. Now, there was a meeting with Acee at MDC,
22 right?

23 A. I was moved to PNM two days later.

24 Q. Okay. Let me ask you this: There was also
25 a meeting with Acee at the FBI office, right?

1 A. Yes, sir.

2 Q. So were you moved to PNM after that?

3 A. Yes, sir.

4 Q. And how soon after that were you placed
5 next to Mr. Perez?

6 A. Right away.

7 Q. Right away?

8 A. Yes, sir.

9 Q. Okay. So you get placed with Mr. Perez
10 in -- I'm showing you -- it's the same thing, but I'm
11 going to show you the one that's marked Defendant's
12 RP-B. And when you get moved to PNM within a matter
13 of days, you get moved to the Q pod, right?

14 A. Yes, sir.

15 Q. The Q pod is where Mr. Perez is?

16 A. Yes, sir.

17 Q. I think you testified that you were at --
18 you were in cell 102; correct?

19 A. Yes, sir.

20 Q. And Mr. Perez was in cell 101?

21 A. Yes, sir.

22 Q. Cell 101 is at the very end of the bottom
23 tier of Q pod, right?

24 A. Yes.

25 Q. So the only neighbor for Mr. Perez would

1 have been whoever is in 102?

2 A. Yes, sir.

3 Q. When you got moved there, that was you?

4 A. Yes, sir.

5 Q. So he doesn't have any neighbor on the
6 other side of him, just you?

7 A. No, it was -- Jesse Sosa was on the other
8 side of me.

9 Q. Jesse Sosa was in 103?

10 A. Yes, sir.

11 Q. Did you record conversations with Jesse
12 Sosa?

13 A. No, sir.

14 Q. Was anybody wondering why he wasn't
15 prosecuted in this case?

16 A. Yes, sir.

17 Q. The other SNM members were?

18 A. Were they concerned about it?

19 Q. Yes.

20 A. Well, yes.

21 Q. Because the paperwork on Javier Molina was
22 that he had ratted Jesse Sosa to the police, right?

23 A. Yes, sir.

24 Q. So that you and Agent Acee talked about
25 recording Jesse Sosa?

1 A. Yes, sir.

2 Q. Did you try to record Jesse Sosa?

3 A. Yes, sir.

4 Q. Did you record Jesse Sosa?

5 A. No, sir.

6 Q. Why not?

7 A. Because he never gave me any relevant
8 information.

9 Q. Did you try?

10 A. I tried.

11 Q. Now, where was -- let me ask you this: Was
12 "Marijuano" in Q pod?

13 A. He wasn't with me.

14 Q. And "Marijuano" was Lupe Urquizo, right?

15 A. He was upstairs. But I don't remember
16 nobody being downstairs with us.

17 Q. Lupe Urquizo was the individual that --

18 A. I know who "Marijuano" is.

19 Q. Okay. Just so that the Court recalls, this
20 is the person that supposedly brought the paperwork
21 down the second time right before Molina got
22 murdered, right?

23 A. Him and Archie, yes.

24 Q. Archie being Mauricio Varela?

25 A. Yes, sir.

1 Q. Did you ever try to record Lupe Urquizo?

2 A. No, sir.

3 Q. Were you ever placed next to him?

4 A. No, sir.

5 Q. Now, when you're at -- I'm going to jump
6 around in time just a little bit -- but when you're
7 at Southern in the yellow pod, you knew that Rudy
8 Perez was in the blue pod, right?

9 A. Rudy Perez was in blue pod, yes, sir.

10 Q. And you knew that he was sick?

11 A. Yes, sir.

12 Q. He had some health problems?

13 A. Yes, sir.

14 Q. Needed a walker to get around on?

15 A. Yes, sir.

16 Q. Had the nurses come giving him medication
17 on a daily basis?

18 A. Yes, sir.

19 Q. And when you were -- skipping ahead now --
20 back to PNM, in the fall of 2015, before you meet
21 Agent Acee at MDC, you said that Mr. Perez was there
22 at PNM, right?

23 A. Yes, sir.

24 Q. And you spoke to him a little bit?

25 A. Yes, sir.

1 Q. And you knew he was still sick?

2 A. Yes, sir.

3 Q. Still took a lot of medications?

4 A. Yes, sir.

5 Q. Had to get wheeled around the place in a
6 wheelchair; he wasn't allowed to walk around?

7 A. Yes, sir.

8 Q. You knew all that?

9 A. Yes, sir.

10 Q. And you knew that when you got next to Mr.
11 Perez in the Q pod in February of 2016, right?

12 A. Yes, sir.

13 Q. As a matter of fact, in the pod outside of
14 his cell they kept his wheelchair, didn't they?

15 A. Yes.

16 Q. They took him to medical a lot?

17 A. Yes, sir.

18 Q. And every day they would come and give him
19 medication, wouldn't they?

20 A. Yes, sir.

21 Q. You saw that happen?

22 A. Yes, sir.

23 Q. Just like you described, they come and they
24 crush up the pill, and they make you take it?

25 A. Yes, sir.

1 Q. So you knew that was happening for Mr.
2 Perez?

3 A. Yes, sir.

4 MR. VILLA: May I have just a moment, Your
5 Honor?

6 THE COURT: You may.

7 Q. Now, in the Q pod, you were placed there
8 not because of discipline, but because you were going
9 to try to record Mr. Perez, right?

10 A. Yes, sir.

11 Q. But individuals that are there normally are
12 there for some sort of disciplinary reason, right?

13 A. Yes, sir. Not apparently. I was at PNM
14 before that. I was in Q pod. So I was under
15 investigation pending Interim Level 6.

16 Q. That was after your parole violation?

17 A. Yes, sir.

18 Q. But before you had cooperated?

19 A. Yes, sir.

20 MR. VILLA: Your Honor, I believe we're on
21 D for Mr. Perez, if I'm not mistaken.

22 Q. Mr. Cordova, I'm just going to show you
23 this on the screen. I have here a disc. It's
24 entitled, "PNM North Edited Walk-through" with the
25 label Defendant's Exhibit RP-D. Do you see that

1 there?

2 A. Yes, sir.

3 Q. I'm going to represent to you there is a
4 video that I'm going to show you of a walk-through
5 that was done at PNM. I'm going to see if you
6 recognize that, okay?

7 Do you see that on your screen, Mr.
8 Cordova?

9 A. Yes.

10 Q. I've got a video here, you see on the left
11 where it has Q 102 on a door?

12 A. Yes.

13 Q. Does that look like the cell that you were
14 in when you were next to Mr. Perez?

15 A. Yes, sir.

16 Q. I'm going to play the video here for a
17 little bit.

18 (Video played.)

19 Q. Now, I paused it here just a second. Can
20 you see that next to 102 is Q 101?

21 A. Yes, sir.

22 Q. And that's the cell where Mr. Perez was in
23 when you recorded him?

24 A. Yes, sir.

25 Q. And you see this pole here in the middle of

1 the screen where I just put the pink arrow?

2 A. Yes, sir.

3 Q. Is that where they kept Mr. Perez'
4 walker -- or excuse me, wheelchair?

5 A. Right there.

6 Q. Is that yes?

7 A. Yes, sir.

8 Q. Okay. And just make sure -- I know you're
9 looking at the video, you might have to pull the mic
10 over just so we can hear you.

11 A. It's a little bit more in front of his
12 door.

13 Q. The wheelchair was?

14 A. Yeah.

15 Q. Okay.

16 (Played video.)

17 Q. Now, we're going into Q 101 here. And the
18 last time you see there on the bottom, 14:48:54? Do
19 you see how that clock is running there on the
20 bottom?

21 A. Yes, sir.

22 Q. Is that about where we are?

23 A. Yes.

24 Q. Does the Q 101 cell look about the same as
25 the way your cell was?

1 A. Yes, sir, without that here on that wall
2 right there, on that side of the wall. My heater is
3 underneath the bunk, like his is.

4 Q. It's underneath the bunk where the heaters
5 are that you're able to talk?

6 A. Yes, sir.

7 Q. And we're about to go under there, I think,
8 here in just a second. And this is the upper vent
9 that circulates the air? We're now at about
10 14:49:33?

11 A. Yes, sir.

12 Q. Sometimes you talked through those vents,
13 right?

14 A. Yes, sir.

15 Q. But for Mr. Perez, it was the heater under
16 the bed; is that right?

17 A. Yes, sir.

18 Q. So what we're looking at now, at about
19 14:50, that's underneath the desk, right?

20 A. Yes, sir.

21 Q. And 14:50:07, we're underneath the bed
22 looking at the heater vent?

23 A. Yes, sir.

24 Q. And this is again in Mr. Perez' room; true?

25 A. Yes, sir.

1 Q. Could you hear better talking through this
2 vent than the other one?

3 A. Almost the same.

4 Q. Did you ever talk to Mr. Perez through the
5 other vent?

6 A. When I would just be pacing back in my
7 cell. Because if you can rewind it, through those
8 holes, you can see into the next cell.

9 Q. Oh, I see. Okay. So from the vent above
10 the desk, you can actually see into the next cell?

11 A. Yes, sir.

12 Q. So occasionally you guys spoke that way?

13 A. Yes, sir. But I never recorded him right
14 there.

15 Q. I understand. So you just recorded him
16 under the bed?

17 A. Yes, sir.

18 Q. So now we're going into Q 102. This is
19 about 14:56:27. Does that look about right to you,
20 Mr. Cordova?

21 A. Yes, sir.

22 Q. Does this cell look about the same as it
23 looked when you were there?

24 A. Yes, sir.

25 Q. So now we're looking under the bed. This

1 is 14:56:57. This is the vent where you would have
2 spoken to Mr. Perez; correct?

3 A. Correct.

4 Q. And I think you testified you put the
5 recording device right onto the vent?

6 A. Right under it.

7 Q. Under it?

8 A. Right under it, right up against it.

9 Q. Where we're looking right now?

10 A. Yes, sir.

11 Q. This is 14:57:23, 24?

12 A. You can hear clearer under it.

13 Q. Okay.

14 A. It's got a screen just like that, with
15 holes in it, and you can see -- you can hear better.

16 Q. How do you signify to Mr. Perez that you
17 wanted to speak to him?

18 A. I knock on the desk. And then I just
19 say -- I just call him through the vent, and I start
20 talking to him.

21 Q. Now, this particular Q pod, you knew at the
22 time was a Level 6 pod?

23 A. Yes, sir.

24 Q. And you had testified, I believe, earlier
25 about the restrictions there in Level 6?

1 A. Yes, sir.

2 Q. So let me go a little bit further.

3 (Video played.)

4 Q. I'm going to pause there at 14:58:47. Now,
5 I understand that it's your testimony you didn't
6 provide Mr. Perez any Suboxone before you questioned
7 him, right?

8 A. Yes, sir.

9 Q. But if you were -- if you had Suboxone, at
10 least in the past, it's your testimony that you would
11 happily share it with another carnal?

12 A. Yes, sir.

13 Q. And if you're both in a cell similar to
14 this, is there a way that you could provide Suboxone
15 to each other?

16 A. Yes, sir.

17 Q. How do you do that?

18 A. Can you see those holes through the vent?

19 Q. The holes in the upper vent on the desk?

20 A. Yeah. You can see into the next room.

21 Q. Yes, sir.

22 A. You make a little fishing pole, and you put
23 it on the end of the fishing pole and send it
24 straight through.

25 Q. And it works like that, no problem?

1 A. No problem.

2 Q. Is there any way to pass things under the
3 doors?

4 A. Nah, but Suboxone, you wouldn't want to do
5 it like because you wouldn't want to get it trapped
6 on the freeway. That's what we call the pod out
7 there, the freeway.

8 Q. So the walkway between the two cells is the
9 freeway?

10 A. Yes, sir.

11 Q. And you wouldn't want to try to send the
12 Suboxone that way, right?

13 A. No. The only thing we usually send like
14 that is just soups, chips. Unless we really have to
15 fish. That's a little different, you know?

16 Q. Say that again.

17 A. Unless I have to fish four houses down,
18 then I'll do it like that. But right there, I just
19 make a little pole, and pass it -- put it on the tip
20 and pass it right through.

21 Q. But if somebody, say, four houses down,
22 meaning four cells down, wanted something, you could
23 try to fish them a line that way?

24 A. Yes, sir.

25 Q. That's like a piece of string?

1 A. Yes, sir.

2 Q. You could send something down the line, and
3 they catch it and bring it in?

4 A. Yes, sir.

5 Q. You can send Suboxone that way?

6 A. Yes, sir.

7 MR. VILLA: Your Honor, I guess for the
8 record, I'd move to admit RP-D. It sounds like Mr.
9 Cordova is familiar with the video that's on there.

10 THE COURT: Any objection, Mr. Castellano?

11 MR. CASTELLANO: If I can just have a
12 representation about what the rest of the video
13 shows, I don't think we'll have a problem.

14 MR. VILLA: Oh, I'd be happy to show -- the
15 other half is the rec yard. And Mr. Cordova is
16 probably familiar with it. But that's coming up here
17 next.

18 THE COURT: All right.

19 MR. CASTELLANO: I don't have an objection.
20 I was just wondering what the rest of the video
21 shows.

22 THE COURT: All right. Any objection from
23 anyone? Not hearing any, Rudy Perez' Exhibit D will
24 be admitted into evidence.

25 Q. Mr. Cordova, when you're in Level 6, during

1 this time that you're actually doing the cooperation,
2 did they take you out to rec and all that sort of
3 stuff?

4 A. Yes, sir. I went out maybe about once.

5 Q. But you're supposed to go or be allowed to
6 go at least five times?

7 A. You're allowed, but you don't have to go.

8 Q. You can choose not to?

9 A. Yes, sir.

10 Q. So, if you go to rec, they allow you five
11 times a week?

12 A. Yes, sir.

13 Q. And you're at rec outside for an hour?

14 A. Yes, sir.

15 Q. Did you ever see Mr. Perez go to rec?

16 A. Once in a while.

17 Q. But not every day?

18 A. Not every day.

19 Q. Did he tell you about why he didn't go to
20 rec?

21 A. Just some people don't like going out all
22 the time.

23 Q. Did he ever tell you he didn't go to rec
24 because they wouldn't let him take his wheelchair
25 there?

1 A. He never told me that.

2 Q. How long were you next to Mr. Perez for
3 this period of time when you're recording him?

4 A. I would say a month, approximate; probably
5 about a month.

6 Q. Now, I'm going to continue and see if you
7 recognize the rec yard here. When you go to rec,
8 they take you out one at a time?

9 A. Yes, sir. It's a two-man escort.

10 Q. You're escorted by two corrections
11 officers?

12 A. Yes, sir.

13 Q. So now we're at the elapsed time on this
14 video, 15:58:08. Do you recognize this as the
15 walkway to get to the rec yard?

16 A. Yes, sir.

17 Q. When they take you out to rec, do they put
18 you in handcuffs and a belly chain?

19 A. Just handcuffs behind your back.

20 Q. Handcuffs behind your back, that's it?

21 A. Well, they take you to a strip cage, and
22 then they put you in the strip cage, uncuff you
23 through a cuff port, then they strip you naked, you
24 squat and cough for them. Then they put cuffs on you
25 and take you to the yard.

1 Q. With two corrections officers at a time?

2 A. Yes, sir.

3 Q. So now we're looking down this hallway.

4 It's 15:59:02, is this the entrance to the cages for
5 the rec yard?

6 A. Yes, sir.

7 Q. Now, it says on the video that it was
8 filmed June 6, 2017. Do the rec yards look the same
9 or similar to the way they looked when you were
10 there?

11 A. Yes, sir.

12 Q. Does anything look different?

13 A. No, sir.

14 Q. Did you ever see Mr. Perez out in the rec
15 yard while you were there?

16 A. Yeah, sometimes.

17 Q. Did you see him in his wheelchair, or was
18 he walking?

19 A. Sometimes he'd be in his wheelchair,
20 sometimes he'd be walking.

21 MR. VILLA: I'll stop it there. Your
22 Honor. I'll represent to the Court the rest of it is
23 more parts of the rec yard.

24 Q. Did you guys have a slang term for
25 Suboxone?

1 A. Yeah.

2 Q. What was it?

3 A. Naranja.

4 Q. Is that a Spanish word?

5 A. Yeah, it's Spanish for orange.

6 Q. For orange. How did you come up with -- if
7 you know -- with that slang term for it?

8 A. It's because the color is orange.

9 Q. The strips are?

10 A. Yes, sir.

11 Q. I see. Did you have slang terms for -- if
12 you want to ask somebody: Do you want to get high,
13 or are you high? What kind of terms did you use for
14 that?

15 A. Yes, sir. A cura. "Wanna cura?"

16 Q. What does that mean?

17 A. Shot. A cura is a shot. It's like Spanish
18 for like a term, like, "Get well." Like a cura. So
19 it's like: "You want a get well shot?"

20 Q. Did you ever use the term "channel change"?

21 A. Yes, sir.

22 Q. What is a channel change?

23 A. Meaning getting high.

24 Q. Because a person is getting high, they're
25 changing their own channel?

1 A. Yes, sir.

2 Q. All right. Now at the time that you
3 recorded Mr. Perez, did you know how long he'd been
4 there?

5 A. Maybe at the North.

6 Q. At the North?

7 A. Probably about a good year,
8 year-and-a-half.

9 Q. And you knew that because he told you?

10 A. Because we were all there about that much.

11 Q. Did you know that he was kept there in
12 Level 6 during that entire year-and-a-half?

13 A. Yes, sir.

14 Q. Did he ever tell you about whether he had
15 been given a hearing or an ability to challenge being
16 there in Level 6?

17 A. Well, they would give us hearings, but they
18 would bring us -- and they would tell us that we were
19 placed on Interim Level 6, due to an investigation
20 going on with the SNM, with the power struggle, and
21 like wars, and people getting killed, getting moved
22 on, and stuff.

23 Q. So did the individuals like Mr. Perez and
24 yourself, at least before your cooperation, did they
25 ever get a chance to get out of the Level 6 after the

1 Molina murder?

2 A. Yes.

3 Q. When did that happen?

4 A. I don't know. A lot of them came here, but
5 some of them went back to the South.

6 Q. So the South would be Level 5?

7 A. Level 4.

8 Q. Level 4?

9 A. Yes, sir.

10 Q. Okay. But as long as you knew, and at the
11 time you recorded Mr. Perez, he had been locked down
12 there for about a year-and-a-half?

13 A. Yes, sir. About maybe a little longer, a
14 couple of years.

15 Q. Have you ever been locked down that long?

16 A. Yeah. I spent most of my time in solitary
17 confinement.

18 Q. What does that do to you?

19 A. Nothing.

20 Q. Does it affect -- does it change you? Does
21 it affect you at all?

22 A. Some ways, yeah; some ways, no.

23 Q. It's different than Level 4, when you can
24 be out in the pod the whole time, isn't it?

25 A. Yes, sir.

1 Q. And the recreation when you're on Level 4
2 is different? You're allowed to interact with other
3 people?

4 A. Yes, sir.

5 Q. When was the first time that you heard that
6 Mr. Perez and Mr. Herrera said you gave them Suboxone
7 before you recorded them?

8 A. This is the first time I've heard about
9 this.

10 Q. So today?

11 A. Today.

12 Q. Nobody mentioned anything to you before?

13 A. Well, my lawyer talked to me and told me:
14 This is what it is.

15 Q. Last night?

16 A. I keep in contact with my lawyer regularly.
17 Yes, last night he told me, when I came down here, he
18 said, You're going to have a court for this, and this
19 is going to be the hearing.

20 Q. Okay. So when the Government filed their
21 response --

22 THE COURT: Hold on just a second. Mr.
23 Samore, why don't you come up here and get a little
24 closer, in case you need to make any objection.

25 Go ahead, Mr. Villa.

1 Q. So Mr. Cordova, when the Government filed a
2 response in this Court saying that Mr. Perez and Mr.
3 Herrera's allegations that you gave him Suboxone
4 weren't true, you didn't tell them that?

5 A. Tell -- I don't understand your question.

6 Q. Okay. So we filed a motion, and the
7 Government files a response. And you know what a
8 motion and a response are, right?

9 A. Yes, sir.

10 Q. And the Government's response -- have you
11 seen the Government's response in this case, to this
12 issue, this motion?

13 A. No. I talked to my lawyer.

14 Q. All right. I don't want to get into
15 necessarily what you found out. But is it your
16 testimony that today, or maybe yesterday, is the
17 first time you ever heard that there was this
18 accusation being made?

19 A. Yes, this is when my lawyer talked to me
20 prior to this.

21 THE WITNESS: When was it, John?

22 MR. SAMORE: I can't answer that.

23 THE WITNESS: Oh, you can't.

24 A. All right. So about a couple days ago, he
25 told me: You're going to be subpoenaed. They're

1 trying to impeach you. And then -- so we don't know
2 when the court will be, but it will be soon. Then
3 all of a sudden, they just picked me up and brought
4 me.

5 Q. All right. Let me ask you this: Did you
6 have a conversation with Agent Acee in January of
7 2017?

8 A. January of 2017, conversation about what?

9 Q. Did you have any conversation at all with
10 Agent Acee January of this year?

11 A. I know he cut me off because of what
12 happened with me, and that was it.

13 Q. But he came to see you, didn't he?

14 A. Yes.

15 Q. He talked to you?

16 A. Yes.

17 Q. At any point in that conversation, did he
18 ask you whether you had provided Suboxone to Mr.
19 Perez or Mr. Herrera?

20 A. No, sir.

21 Q. Did he tell you that that was an allegation
22 in this case?

23 A. No, sir.

24 Q. So you didn't learn that that was an
25 allegation in this case until a couple days ago?

1 A. No, sir.

2 Q. Well, is that true?

3 A. Yes, sir.

4 Q. And you understand, of course, that if you
5 had provided Suboxone to Mr. Perez before you
6 recorded him, that might put you in some serious
7 trouble?

8 A. Yes, sir.

9 Q. And if you'd provided it to Mr. Herrera
10 before you recorded him, that might also put you in
11 serious trouble?

12 A. Yes, yes, sir.

13 Q. Now, I think we heard that when you got
14 recording devices for recording Mr. Perez, it came
15 from an STIU officer?

16 A. Yes, sir.

17 Q. And they would act like they're doing a
18 shakedown of your room, and leave the recording
19 device?

20 A. One time they did that. The other time I
21 got it through a tray.

22 Q. For Mr. Perez?

23 A. No.

24 Q. Just for Mr. Herrera?

25 A. For Mr. Herrera.

1 Q. So with Perez it was the shakedown?

2 A. Yes, sir.

3 Q. How long did you have that recording device
4 before you turned it back in?

5 A. Till they came and picked me up.

6 Q. So the entire time you were next to Mr.
7 Perez?

8 A. Yes, sir.

9 Q. And your estimate was a couple weeks, maybe
10 a month?

11 A. Yes, sir.

12 Q. Other than when they brought the digital
13 recording device, did they do any other shakedowns of
14 your room during that time period that you were
15 recording Mr. Perez?

16 A. No, sir.

17 Q. Did they do any drug testing of you?

18 A. No, sir.

19 Q. And who was the STIU officer that brought
20 you the recording device for Mr. Perez?

21 A. Cupit.

22 Q. Mr. Cupit. Do you know his first name?

23 A. No, sir.

24 Q. Did you have any conversations with Mr.
25 Cupit when that happened, or he just dropped it off

1 for you?

2 A. He pulled me out, told me, "I'm going to
3 drop a recorder in your cell."

4 I said, "All right."

5 He went in there, it was shaken down, and
6 he dropped recorder in, and he left.

7 Q. Cupit was present when you had your meeting
8 with Acee about doing this, right?

9 A. Yes, sir.

10 Q. And he was present at MDC?

11 A. No, he wasn't.

12 Q. Was he present at the FBI office when you
13 met?

14 A. Yes, sir.

15 Q. And Captain Sapien, was he present for the
16 meeting --

17 A. I can't recall.

18 Q. How about any meetings?

19 A. Huh?

20 Q. Was Captain Sapien present for any
21 meetings?

22 A. Yes.

23 Q. Which ones?

24 A. When I went to go see my lawyer.

25 Q. Okay. You don't recall seeing him before

1 that?

2 A. No, sir.

3 Q. Now, you received a target letter in this
4 case, didn't you?

5 A. What do you mean?

6 Q. Well, it's a letter from the United States
7 Attorney's Office saying that you might be the target
8 of a grand jury investigation?

9 A. No, sir.

10 Q. You don't ever remember getting a letter
11 like that?

12 A. No, sir.

13 Q. Have you ever been prosecuted for anything
14 in connection with this federal investigation?

15 A. No, sir.

16 Q. So is it fair to say, since the
17 manslaughter case got resolved, you haven't been
18 prosecuted for anything else?

19 A. No, sir.

20 Q. And I think it was your testimony that the
21 money you received on commissary from the FBI, that
22 you were getting more money than that from your
23 family?

24 A. Yes, sir.

25 Q. Did the FBI ever give money to your family?

1 A. No, sir.

2 Q. They never gave money to your wife?

3 A. No, sir.

4 Q. Or anybody else?

5 A. No, sir.

6 MR. VILLA: May I have a moment, Your
7 Honor?

8 THE COURT: You may.

9 Q. Just a couple of things I forgot to ask
10 you, Mr. Cordova.

11 Is the price of Suboxone higher on the
12 streets than it is in prison?

13 A. No, it's less on the streets, and higher in
14 prison.

15 Q. Do you know why that is?

16 A. Because it's prison.

17 Q. You pay more?

18 A. Yes, sir.

19 Q. How do you pay for it?

20 A. You send money to people.

21 Q. On the outside. What if you want it from
22 somebody else that has it on the inside, that wants
23 to sell it to you?

24 A. You give them canteen. It's mostly
25 canteen.

1 Q. But that value -- whatever the canteen is
2 is going to be higher than what you might pay for it
3 on the street?

4 A. Yes, sir.

5 Q. Okay. Now, I want to go back to something
6 you said earlier, that after the Molina murder, when
7 they locked everybody down, that they knew right away
8 that the piece -- the shank had come from Mr. Perez'
9 walker. You said they knew that, right?

10 A. Yes.

11 Q. Who is "they"? You're talking about STIU?

12 A. Yes, sir.

13 Q. How did you know that they knew?

14 A. Because when "Red" came back, "Red" was
15 telling Perez about that. And when we would go to
16 yard in the cages, all that was out there, you know
17 what I'm saying?

18 Q. Yeah.

19 A. So that's why.

20 Q. Okay. And that was information that you
21 knew at the time you recorded Mr. Perez?

22 A. Yes, sir.

23 Q. And you used that information, didn't you?

24 A. Yes, sir.

25 Q. To talk to Mr. Perez about the Molina

1 murder?

2 A. Yes, sir.

3 Q. And get him to talk to you about the
4 murder?

5 A. Yes, sir.

6 Q. And isn't it true that, in the course of
7 those recordings, Mr. Perez was saying: I didn't
8 cooperate, I didn't tell the police anything, or STIU
9 anything?

10 A. What he means when he says that is: "I
11 didn't say nothing." In other words, see no evil,
12 hear no evil, speak no evil. So what he's stating is
13 "I didn't say nothing," get what I'm saying?

14 Q. Yes.

15 A. So, in other words, I'm telling you, I see
16 you do something, then I tell you, I didn't see you
17 do, you know what I'm saying? So what he's stating
18 is he gave it to him, but he don't know nothing about
19 it. So, in other words, he's keeping his mouth shut,
20 he's not making a statement to the police. That's
21 what he's stating.

22 Q. But didn't he also say to you that at the
23 time, after the Molina murder, he did not say
24 anything to STIU, he did not cooperate?

25 A. Yes.

1 Q. He wanted you to know that?

2 A. He wanted me to know that.

3 Q. Because you could spread the word to the
4 other carnals that he wasn't a cooperator?

5 A. Yes.

6 Q. And, therefore, he wouldn't get hit?

7 A. Yes. What he was doing is just trying to
8 get, I guess, people on his side, and make them
9 believe -- and he shouldn't have to do that, though,
10 you know what I mean?

11 Q. I understand. But he was protecting
12 himself?

13 A. Well, that's how it goes in the high game.

14 Q. Right, so he didn't get moved on?

15 A. Yeah.

16 MR. VILLA: That's all I have. Your Honor.

17 THE COURT: Thank you, Mr. Villa.

18 Anyone else have cross-examination of Mr.
19 Cordova?

20 All right. Mr. Castellano.

21 MS. JACKS: Your Honor --

22 THE COURT: Ms. Jacks?

23 MS. JACKS: I was told by Ms. Fox-Young
24 that they might seek to interrupt with a witness
25 that --

1 MS. FOX-YOUNG: Your Honor, we have a very
2 short witness. I talked to Mr. Beck about what may
3 be a ten-minute witness. He's from way up north, and
4 I was hoping we might get through him today. So I
5 wanted to let Ms. Jacks know that he's got to get
6 back to El Rito. And I don't think the Government
7 objects. But we don't need to do it now. Perhaps we
8 can finish up.

9 THE COURT: Okay. What if we go to 4:30 on
10 cross-examination of Mr. Cordova, then we put him on
11 right after we come back from the break, so about
12 4:45, 5:00?

13 MS. FOX-YOUNG: I think that would be fine
14 Your Honor. And I don't want to cut Ms. Jacks short.

15 THE COURT: I doubt anybody is going to cut
16 Ms. Jacks short.

17 MS. JACKS: I'm happy to go whenever is
18 convenient.

19 THE COURT: All right. Get after it.

20 EXAMINATION

21 BY MS. JACKS:

22 Q. Mr. Cordova, you, prior to becoming an
23 informant in this case, you considered yourself an
24 SNM soldier; is that right?

25 A. Yes, ma'am.

1 Q. And you got out of prison shortly after the
2 Molina homicide?

3 A. Yes, ma'am.

4 Q. What was the date?

5 A. I believe it was April 28.

6 Q. Of 2014?

7 A. Yes, ma'am. Is that correct?

8 Q. When did you get rearrested?

9 A. I got rearrested December 3rd.

10 Q. Of the same year, 2014?

11 A. Yes, ma'am.

12 Q. And that arrest, December 3rd of 2014, was
13 for a homicide?

14 A. Yes, ma'am.

15 Q. That you were alleged to have committed?

16 A. Yes, ma'am.

17 Q. And you ultimately went to trial on that
18 case?

19 A. Yes, ma'am.

20 Q. And you were convicted of a lesser charge,
21 a manslaughter?

22 A. Yes, ma'am.

23 Q. And when was that jury verdict? When was
24 that conviction?

25 A. I'm sure it was on December 8, if I'm not

1 mistaken.

2 Q. Of 2015?

3 A. Yes, ma'am.

4 Q. So when you first were approached, and met
5 Agent Acee, you were convicted of the manslaughter,
6 but awaiting your sentencing?

7 A. Yes, ma'am.

8 Q. And that's when you were at the MDC in
9 Albuquerque?

10 A. Yes.

11 Q. So you would agree with me that you killed
12 somebody in December of 2014, right?

13 A. Yes, ma'am.

14 Q. Who?

15 A. Ray Gurule.

16 Q. Ray Gurule?

17 A. Gurule. Yes, ma'am. G-U-R-U-L-E.

18 Q. Okay. And why did you kill him?

19 A. I didn't kill nobody, Miss.

20 Q. So you got convicted of a crime you didn't
21 commit?

22 A. Yes, ma'am.

23 Q. And you were falsely accused of the killing
24 of Ray Gurule?

25 A. Yes, ma'am.

1 Q. Were there allegations in your homicide
2 case that you had committed a crime because you were
3 a soldier for SNM?

4 A. In that crime?

5 Q. Yes.

6 A. No, ma'am.

7 Q. So it was -- the prosecutor in that case
8 alleged that you killed somebody, but they thought
9 you'd done it for your own purposes?

10 A. Yes.

11 Q. And it sounds like your defense was you
12 didn't do it?

13 A. Yes, ma'am.

14 Q. And the jury convicted you of a lesser
15 charge?

16 A. Yes, ma'am.

17 Q. Would you agree with me that as an SNM
18 soldier, it's possible for you to commit crimes based
19 on your own motivations that have nothing to do with
20 SNM?

21 A. No, ma'am. What it is, when you're a
22 soldier, you have to do sanctioned crimes. They have
23 to be sanctioned by the tabla. We don't want idiots
24 running around. That's how they do it. They don't
25 want idiots running around causing trouble, where

1 trouble is not to be caused, you know what I'm
2 saying?

3 Q. So I'm just curious, is it possible when
4 you're an SNM soldier, based on your experience, that
5 if you, for example, decided to get into a fight with
6 somebody, that it was for your own personal reasons?

7 A. Yes, ma'am, you can also do that.

8 Q. Okay. Because you don't stop being a human
9 being, do you?

10 A. Exactly.

11 Q. And if someone irritates you or aggravates
12 you for a personal reason, you might decide to take
13 action completely on your own?

14 A. It depends what it is, or who it is. It
15 gets real political. If it's another gang member,
16 there might be issues there. So it depends who it
17 is. You can't just walk up to anybody and do
18 anything at the time, because it's real straight
19 policies and rules on certain things you need to do
20 in the SNM.

21 Q. Let me just stop you there, Mr. Cordova.
22 Are you making the assumption I'm talking about
23 crimes in prison versus crimes in the streets?

24 A. I'm talking about it all in general.

25 Q. Anywhere?

1 A. Anywhere.

2 Q. And so your answer would apply to
3 anywhere -- that anywhere, even if you're an SNM
4 soldier, anywhere where you are, you're capable of
5 committing a crime based on your own motivation, and
6 not being ordered by the gang?

7 A. As long as you don't cause conflict within
8 the clique, they don't really care about it. But if
9 it brings conflict and disruption, then they care.

10 Q. When you met with Agent Acee in January of
11 2016, did Agent Acee communicate to you that he knew
12 you had just been convicted of a homicide?

13 A. Yes, he knew I'd been convicted of a
14 homicide.

15 Q. And he knew you were awaiting sentencing?

16 A. Yes, ma'am.

17 Q. And did -- I think you testified earlier
18 that during that conversation, that's when Agent Acee
19 told you that he was looking at you as the target of
20 a racketeering prosecution?

21 A. No, that's not what he said. He said:
22 This is what things are being said. But, no, that's
23 not true. Because in my court it says other. So you
24 can go ahead and you can look up my case if you want,
25 yourself, and it will state there were no witnesses,

1 stated different. You get what I'm saying?

2 Q. I understand. Your position is your case
3 had nothing do with SNM Gang activity. I understand
4 that.

5 My question is, when you met with Agent
6 Acee --

7 A. No, he wasn't looking at me for that
8 murder.

9 Q. Okay. Did he tell you that he was looking
10 at you as the potential target of a racketeering
11 prosecution?

12 A. What Bryan Acee asked me: Did that person
13 disrespect you in any way or disrespect the SNM? And
14 I told --

15 Q. Mr. Cordova, I'm going to ask you if you'd
16 answer the question, and then we can go on and talk
17 about what you want to talk about.

18 A. Yes, ma'am.

19 Q. Okay. So the question was: In January of
20 2016, when you first met with Agent Acee, did he tell
21 you you were being looked at or considered as a
22 target of some sort of racketeering prosecution?

23 A. Yes, ma'am.

24 Q. And did he tell you the types of crimes
25 that he thought you had committed in the past that

1 made you such a target?

2 A. He didn't say that. But he said I was
3 being looked at.

4 Q. Okay. Well, did he tell what things you
5 had done that were causing you to be looked at?

6 A. At that time, no, ma'am.

7 Q. Did he mention to you that the homicide
8 that you'd just been convicted of was something he
9 was looking at, Agent Acee?

10 A. He asked me: Is it SNM related? Did they
11 disrespect the SNM in any way, or anything like that?
12 And I said no.

13 Q. All right. So during that conversation,
14 you sought to assure him that the crime that you had
15 just been convicted of had nothing to do with the SNM
16 Gang?

17 A. Yes, ma'am.

18 Q. But he was asking you questions about
19 whether that crime was related to the gang, right?

20 A. Yes, ma'am.

21 Q. And in your mind -- well, did you know --
22 you said you had witnessed people being arrested on
23 the first SNM racketeering takedown?

24 A. Yes, ma'am.

25 Q. When Agent Acee told you that you were

1 being looked at as a target of a racketeering
2 investigation, and asking you questions about a
3 homicide that you'd just been convicted of, what went
4 through your mind in terms of what sort of time you
5 might be facing?

6 A. There again, you're putting words in my
7 mouth. He never said I'm being looked at for that
8 murder. He asked me: Is it SNM related? He didn't
9 say I was being looked at for the murder. He just
10 asked me: Is it SNM related?

11 Q. When Acee told you you were being looked at
12 as target of a racketeering prosecution, what went
13 through your mind in terms of what sort of time you
14 might be looking at?

15 A. It wasn't also what he had told me. It was
16 everything else he had talked to me about: About
17 doing this; about how he's worked with many other
18 organizations, and if he thinks it's worth it. At
19 one time I thought it was worth it. But now, it's
20 not worth it.

21 Q. So he gave you -- he sort of acted as a
22 counselor?

23 A. He gave me an opportunity to dismantle the
24 SNM. And I chose to join on is what happened.

25 Q. Is that how he put it to you: That here's

1 your opportunity to dismantle the SNM?

2 A. No. That's how I took it.

3 Q. How did Agent Acee put it?

4 A. To stop these guys from committing more
5 murders.

6 Q. Did Agent Acee discuss with you
7 opportunities that perhaps he could present to you if
8 you were to become a witness for him?

9 A. Opportunities? Like what?

10 Q. Well, like let's talk about tattoo removal.
11 Did he talk about that with you?

12 A. He talked about that, he talked about
13 WITSEC facility and all that. And I denied it.

14 Q. Let's just go one by one, okay. He talked
15 about tattoo removal with you; is that right?

16 A. Yeah.

17 Q. And did he talk about that maybe he could
18 help you get tattoos removed?

19 A. But this was after. This was later on when
20 I spoke to my attorney and him.

21 Q. In a different conversation?

22 A. In a different conversation.

23 Q. Okay. Well, I want to stick with this
24 first conversation, so give me a second.

25 A. So, no. If it's the first conversation,

1 no.

2 Q. In the first conversation did he talk to
3 you about the fact that -- did he talk to you about
4 the fact that he was going to ask you to wear some
5 sort of recording device and record conversations?

6 A. He said, "Are you willing to do this?"

7 And I said yes.

8 Q. And did he tell you why he wanted you to
9 wear some sort of recording device to record
10 conversations?

11 A. That was in the second conversation. So,
12 no, we never talked about that. The first
13 conversation I told him what I can do for him, and
14 then we just stayed at that. That's all it was.

15 Q. And the idea was, if you would agree to do
16 something for him, he wouldn't continue to pursue you
17 as a target in a racketeering investigation?

18 A. We didn't really get into that till later
19 on.

20 Q. Well, is that what you understood, though?
21 Is that one of the reasons you agreed to record
22 conversations?

23 A. Well, yeah. No, I knew something --

24 Q. You knew if you'd agree, Acee would back
25 off, right?

1 A. To be honest with you, I just agreed.

2 Q. Let's go to the second conversation.

3 Because in the second conversation I think you said
4 that he explained to you why he wanted you to wear --
5 use a recording device?

6 A. Because my say-so, my word, wouldn't
7 matter. So he needed me to get it on a recording.

8 Q. So, essentially, what he told you, if you
9 say something is true --

10 A. Get it on a recording.

11 Q. -- he's not going to believe you unless
12 there is a recording of it?

13 A. It's not that. It's just that he needs it
14 on recording. He can't --

15 Q. Rely on your word?

16 A. Not that he don't believe me, because
17 that's the way the court system works, right?

18 Q. He told you that he couldn't believe just
19 your word, so he would want you to capture these
20 conversations or statements on recordings?

21 A. In other words, if it's true, get it for
22 him on recording.

23 Q. So if it's true, prove it, right?

24 A. Not prove it. "If it's true, can you get
25 it for me?"

1 And I said, "Yes, I can."

2 He said, "Okay, then go ahead."

3 Q. And specifically when you discussed these
4 recordings, were you discussing recording Mr. Perez?

5 A. Now what, miss?

6 Q. When you discussed making these recordings
7 with Acee, were you discussing recording Mr. Perez,
8 Rudy Perez?

9 A. Yes, ma'am.

10 Q. And you had, just about a month or so
11 prior -- been housed with Rudy Perez at PNM, right?

12 A. I'd say about a few months before that.

13 Q. Prior to your conviction in the murder
14 case?

15 A. Yes, ma'am.

16 Q. And you knew, because you had lived with
17 Mr. Perez at various times over the years, that he
18 had medical problems, right?

19 A. Yes, ma'am.

20 Q. Did you know the nature -- did you know the
21 nature of those problems?

22 A. He just told me he got stabbed and shot a
23 bunch of times.

24 Q. Okay. Did Mr. Perez complain to you about
25 the fact that he was in a lot of pain?

1 A. I know he said it slowed him down. But how
2 hard? He was still going.

3 Q. Did you know, when you talked with Agent
4 Acee, that Mr. Perez was being prescribed medication
5 while he was at PNM?

6 A. Yes, ma'am.

7 Q. And the medication in the form of pain
8 killers, right?

9 A. Yes, ma'am.

10 Q. Do you know the names of the medication
11 that he was being prescribed based on your
12 conversations with him?

13 A. I think that Neurontin, Tramadol, Depakote.
14 And I can't recollect the rest.

15 Q. Vicodin?

16 A. Vicodin? I don't know if it was Vicodin,
17 but he told me a lot.

18 Q. And you knew, when you talked with Agent
19 Acee, that Mr. Perez had been when you last saw him
20 taking those kind of medications on a daily basis?

21 A. Yes, ma'am. No, I hadn't talked to Acee
22 about that.

23 Q. You didn't mention that to Acee?

24 A. I didn't mention that to him.

25 Q. But in your mind you knew that Perez was on

1 those kind of medications, right?

2 A. Yes, ma'am.

3 Q. And did you have any opinion as to how
4 those medications affected Mr. Perez, based on
5 watching?

6 A. Just made him feel good.

7 Q. Making him relaxed?

8 A. Yeah. To make him feel good.

9 Q. Now, you testified on direct examination
10 about sort of the plan of how you were going to get
11 some sort of recorded statement from Mr. Perez. Do
12 you recall that testimony?

13 A. What do you mean?

14 Q. Well, I think you had a plan, because you
15 said part of your plan was you weren't going to go in
16 there and intimidate him to try to get him to make
17 statements.

18 A. Intimidate him?

19 Q. Right.

20 A. Do I sound intimidating on the recording?

21 Q. No.

22 A. There you go.

23 Q. You didn't hear my question. I said part
24 of your plan, at least that you testified about when
25 Mr. Castellano was asking you questions, was that you

1 weren't -- you were not going to try to intimidate
2 him, right?

3 A. I didn't try to intimidate him.

4 Q. That's not the question.

5 A. You're asking me if I tried to intimidate
6 him?

7 Q. No, I'm not.

8 A. Then what are you asking?

9 Q. I'm saying part of your plan was
10 deliberately to not intimidate him, right?

11 A. To not intimidate him. So what are you
12 trying to say, I'm going to butter him up?

13 Q. That you're going to what?

14 A. I'm going to butter him up.

15 Q. What I'm trying to ask --

16 A. Can you please get to the point, Miss,
17 because you're, like, confusing me.

18 Q. Excuse me, that's for the Judge, Mr.
19 Cordova.

20 My question is that you formed a plan in
21 your mind, and with Agent Acee, about how you were
22 going to get these recorded statements from Mr.
23 Perez, right?

24 A. Of course.

25 Q. Okay. And part of that plan was that you

1 were going to not -- you were not going to use
2 intimidation as a tactic?

3 A. No. I did not use intimidation as part of
4 a tactic.

5 Q. And you testified earlier that you were
6 going to use --

7 A. Same question.

8 Q. You testified earlier that you were going
9 to use -- and I'm going to use the term you said --
10 "pressure points." Do you recall that testimony?

11 A. Yes, ma'am.

12 Q. Where did that term pressure points come
13 from?

14 A. Pressure points is you can't approach him
15 directly, and say, Hey --

16 MS. JACKS: Object as nonresponsive.

17 MR. CASTELLANO: Objection, Your Honor. He
18 is answering the question.

19 MS. JACKS: No, he's not.

20 THE COURT: Well, hold on, hold on.

21 THE WITNESS: Jeez.

22 THE COURT: Mr. Cordova, do this for me,
23 okay?

24 THE WITNESS: Yes, sir. Sorry, Your Honor.

25 THE COURT: Let's not add a bunch of

1 comments while --

2 THE WITNESS: Sorry about that.

3 THE COURT: -- while the defense lawyers
4 are asking the questions.

5 Probably Mr. Castellano doesn't mind what
6 you say, but we're in cross-examination. So listen
7 very carefully to Ms. Jacks' question. Just answer
8 it and then be quiet.

9 Ms. Jacks.

10 BY MS. JACKS:

11 Q. Let me repeat the question. Whose term was
12 pressure points?

13 A. That's my term.

14 Q. Okay. And what did that mean?

15 A. Pressure points is I can't approach him
16 directly and just say, Hey, did you -- you know what
17 I mean? So I've got to talk to him, and get the feel
18 about what's going to be said next.

19 Q. Try to put him at ease?

20 A. Trying to get him to reveal the truth,
21 without asking him directly. So it's asking him
22 indirectly, and getting him to reveal it on his own.

23 Q. And you said that you recorded -- let me go
24 back for a second, because I want to ask you a couple
25 of questions about the recordings. Do you recall

1 that Mr. Villa asked you some questions about whether
2 you made efforts to record Jesse Sosa? Do you recall
3 those questions?

4 A. Yes, ma'am.

5 Q. And you said that you didn't make any
6 recordings of Jesse Sosa?

7 A. No, ma'am.

8 Q. And I think -- do you recall the testimony
9 that you said that you tried to, but Jesse Sosa never
10 gave you any information?

11 A. Never gave me any information. So it
12 wasn't worth turning on the recorder.

13 Q. Okay. So that's what I'm getting to. So
14 when you say that you tried to get information from
15 Jesse Sosa, did you talk to him --

16 A. Yes, ma'am.

17 Q. -- about -- let me finish the question.
18 Did you talk to him about the homicide of Mr. Molina?

19 A. Yes, ma'am.

20 Q. And did you talk to him with an effort to
21 try to get him to make statements about it?

22 A. Yes, ma'am.

23 Q. And on how many occasions do you think you
24 initiated those conversations?

25 A. Probably a few days.

1 Q. Over the course of a few days?

2 A. Yes, ma'am.

3 Q. And was idea that -- I mean, I'm just
4 trying to understand. You didn't have the recorder
5 on when you tried to talk to him about this?

6 A. No, ma'am.

7 Q. So was your plan -- you had a plan for
8 getting statements from Jesse Sosa, too, right?

9 A. Yes.

10 Q. And was the plan to get Jesse Sosa to talk
11 about the Molina homicide when the recorder was off,
12 and then get him to talk about it again, but record
13 it?

14 A. Yes, ma'am. Not only when it's off. Like
15 when you're talking to somebody, you get the feel
16 about what they're about to say. You get to where
17 it's meeting. And then you turn it on, you get what
18 I'm saying?

19 Q. Right. I do. And is that the same kind of
20 plan that you used to try to get incriminating
21 statements from Mr. Perez?

22 A. Yes, ma'am.

23 Q. Kind of talk to him a little bit about it,
24 see what he's going to say?

25 A. Yes, ma'am.

1 Q. And then try to bring the topic up later
2 when you turn the recorder on?

3 A. Yes, ma'am.

4 Q. Or when it gets to a point where he seems
5 like he's just about to make some sort of statement,
6 you flip the recorder on real quick?

7 A. Yes, ma'am.

8 Q. And is that a plan of using the recorder
9 that you just came up with on your own, or did you
10 have any help from anybody?

11 A. That was my plan.

12 Q. Earlier, when you testified, you said you
13 didn't have the recorder; that you would turn the
14 recorder off when the person was talking just
15 gibberish?

16 A. Yes, ma'am.

17 Q. What is gibberish?

18 A. When there is nothing to be said; there is
19 nothing to be talked about. He wasn't talking about
20 murders. He wasn't talking about nothing that was
21 going to incriminate him.

22 Q. So that's what I'm getting to. So, in your
23 mind, if somebody wasn't saying something that
24 incriminated them in a murder, like Agent Acee
25 wanted, you'd turn the recorder off?

1 A. Yes, ma'am.

2 Q. Now, I think you answered some questions
3 probably from all the lawyers that have been up
4 questioning you about Suboxone. Do you know what
5 Suboxone is?

6 A. Yes, ma'am.

7 Q. And have you -- you've used it in custody,
8 right?

9 A. Yes, ma'am.

10 Q. And you've used it at every place where
11 you've been in custody, right?

12 A. Most places, yes, ma'am.

13 Q. Well, is there anyplace where you've been
14 in custody that you haven't used it?

15 A. Yes, ma'am.

16 Q. Where?

17 A. Where I'm at now.

18 Q. Okay. So right now, you're in sort of
19 what's called the RPP Program?

20 A. Yes, ma'am.

21 Q. And you haven't been -- you haven't used it
22 there?

23 A. No, ma'am.

24 Q. Other than that, any other facility housing
25 assignment where you have not used Suboxone?

1 A. No, I pretty much used them at every
2 facility I was at in the past. That's the only
3 facility I never used it.

4 Q. And if I understand your testimony
5 correctly, the way you get Suboxone when you're in a
6 facility, is either somebody brings it in through a
7 visit -- that's one way, right?

8 A. Yes, ma'am.

9 Q. Or somebody gives it to you?

10 A. Yes, ma'am.

11 Q. Some other inmate gives it to you?

12 A. Yes, ma'am.

13 Q. Is there any other way to get it?

14 A. Yes, ma'am.

15 Q. How?

16 A. The mailman.

17 Q. The mail?

18 A. Yes, ma'am.

19 Q. Any other way?

20 A. Just visits; COs; someone gives it to you,
21 or visits.

22 Q. Okay. So you added one there. You said
23 correctional officers?

24 A. Yes, ma'am.

25 Q. So you can get Suboxone sometimes from a

1 corrupt correctional officer?

2 A. You pay them, and he's willing to bring it,
3 yes.

4 Q. So we have through visits, through the
5 mail, through correctional officers, and through
6 other inmates?

7 A. Yes, ma'am.

8 Q. Does that pretty much complete the list the
9 ways you can get it?

10 A. Yes, ma'am.

11 Q. When you were moved in February of 2016,
12 next to the cell where Mr. Perez was, did you have
13 interaction with correctional officers?

14 A. Just the STIU.

15 Q. But what about the officers that were in
16 charge of supervising your unit?

17 A. All right. Can you clarify the question,
18 Miss, please? When you say interaction, what kind of
19 interaction? Do you mean like them bringing me
20 drugs, or them taking me to the yard, taking me to
21 the shower, bringing me my food?

22 Q. Interaction I mean any contact. So
23 maybe --

24 A. Yes, ma'am.

25 Q. Did you have any contact with correctional

1 officers?

2 A. Yes, ma'am.

3 Q. Did you send and receive mail?

4 A. No, ma'am.

5 Q. In February of 2016, you didn't send or
6 receive any mail?

7 A. No, ma'am. If I received any mail, it was
8 more than likely a money order. That was it.

9 Q. Wait, wait. What's the answer then?

10 A. It was just a money order. That's it.

11 Q. So then the answer would be, yes, you did
12 receive mail?

13 A. I'm just saying, because I know I get a
14 money order once a month, you know what I'm saying?
15 So if I did, it was only a money order. It wasn't a
16 letter out, it wasn't a letter in.

17 Q. Okay. But you did receive mail?

18 A. Not when I was next to Perez, no.

19 Q. Did the money order come through the United
20 States Postal Service?

21 A. Yes, ma'am.

22 Q. And it's your testimony that that is not
23 mail?

24 A. I said if I received mail, it's a money
25 order.

1 Q. My question was: Did you receive mail. So
2 can you answer that question?

3 A. I don't recollect. I don't remember.

4 Q. So it seems like what you're saying is a
5 money order sent through the mail is not mail?

6 A. What I'm saying is, if it's a letter, no, I
7 didn't receive no mail or no letters, when I was next
8 to Perez.

9 Q. Did you get visits in February of 2016?

10 A. No, ma'am.

11 Q. And were there other inmates housed with
12 you in February of 2016?

13 A. Whoever was there.

14 THE COURT: All right. Let's take our
15 break for 15 minutes. I'm not telling the marshals
16 what to do, but if you want to leave Mr. Cordova
17 outside of the courtroom until we get done with this
18 witness, because we're not going to pick up Mr.
19 Cordova right when we start. Do you understand?

20 (The Court stood in recess.)

21 THE COURT: Let's see, Ms. Fox-Young, did
22 y'all have your witness you want to put on at this
23 time?

24 MS. FOX-YOUNG: Yes, Your Honor. We call
25 Jose Martinez.

1 THE COURT: Mr. Martinez, if you'll come up
2 and stand next to the witness box on my right, your
3 left. Before you're seated, my courtroom deputy will
4 swear you in.

5 JOSE BERNARDINO MARTINEZ,
6 after having been first duly sworn under oath,
7 was questioned and testified as follows:

8 DIRECT EXAMINATION

9 THE CLERK: Please be seated and state your
10 name for the record.

11 THE WITNESS: My name is Jose Bernardino
12 Martinez.

13 THE COURT: Mr. Martinez. Ms. Fox-Young.

14 MS. FOX-YOUNG: Thank you, Your Honor.

15 BY MS. FOX-YOUNG:

16 Q. Good afternoon, Mr. Martinez. What is your
17 profession?

18 A. I'm a medical provider, a PA.

19 Q. What does PA stand for?

20 A. Physician's assistant.

21 Q. Where are you currently employed?

22 A. Currently, I'm with the Clinica Del Norte
23 facilities out in El Rito, New Mexico.

24 Q. Was there a time when you were employed
25 working at the Penitentiary of New Mexico?

1 A. Yes, ma'am.

2 Q. When was that?

3 A. Probably 2015 and 2016, part of 2016.

4 Q. Were you working as a physician's assistant
5 there?

6 A. Yes.

7 Q. What were your job duties?

8 A. Everything. Primarily, sort of like a
9 family practice practitioner, doing physicals, taking
10 care of emergencies, on-call; seeing whatever needed
11 to be seen.

12 Q. You were there every day seeing patients?

13 A. Every day.

14 Q. And do you remember seeing a patient named
15 Rudy Perez?

16 A. Yes, I do.

17 Q. And that was in 2015 and 2016?

18 A. Yes.

19 Q. Do you remember what you saw him for?

20 A. He had multiple things: High blood
21 pressure. He was a Type II diabetic. He had a
22 seizure disorder. He had cholesterol problems.
23 That's what I can remember. Primarily, when I was
24 seeing him, I was seeing him because he was morbidly
25 obese, and he was in a wheelchair. And we were

1 trying to get him -- my contact with him was
2 primarily around that. The other stuff I also saw a
3 little bit, but I was seeing if we can get him
4 ambulating. He had a wheelchair, he had a walker in
5 his unit. And we were trying to -- we got him to a
6 point to where he was able to ambulate, and we were
7 trying to get him a cane.

8 Q. Do you recall what unit he was in?

9 A. Level 6.

10 Q. That's fine.

11 A. Okay.

12 Q. And when you saw him, did he come to see
13 you, or did you go to see him in his unit?

14 A. No, routinely, he -- when I went to see
15 him, he came to see me, because we didn't have direct
16 contact in terms of the cells in the unit. In that
17 unit, if there was something that needed to be seen
18 faster, they would bring him in to the medical
19 clinic. If something -- I did the call, I would go
20 out to the unit, but they had to bring him out from
21 his cell into the triage room.

22 Q. Do you remember how often you saw him?

23 A. I would say a couple times a week;
24 sometimes less, sometimes more.

25 Q. Okay. And I'm going to ask you

1 specifically about if you remember the time period --
2 Mr. Perez, I'll submit to you, was at PNM from June
3 2015 until about May of 2016. Were you working at
4 PNM that whole time?

5 A. Yes.

6 Q. And during that period of time, do you
7 remember how often you saw him?

8 A. Sometimes weekly, sometimes once or twice a
9 month. But I would say once or twice weekly.

10 Q. Once or twice weekly on average?

11 A. On average.

12 Q. And you said he was using a wheelchair.
13 When he came to see you, whether that was in the unit
14 or in the medical facility, did he come in a
15 wheelchair?

16 A. Yes, he was always escorted.

17 Q. He was escorted by whom?

18 A. Officers, unit officers. Level 6 is a max,
19 so they're not let out to walk on their own. They
20 have to be escorted everywhere they're going.

21 Q. So these were correctional officers from
22 Level 6 who brought him to you?

23 A. Yes.

24 Q. Were there STIU officers?

25 A. I don't ever recall any STIU officers.

1 Q. You just know he was escorted by officers?

2 A. Yes.

3 Q. Do you recall if Mr. Perez was in pain?

4 Did he complain to you of pain during that period of
5 time?

6 A. One of his many complaints. He was
7 complaining of pain, complaining of not feeling well.

8 Q. And did you talk to him about the seizures?

9 A. Yes.

10 Q. And do you know if he had any seizures
11 while he was at PNM?

12 A. We had three or four people with seizure
13 disorders. I can't honestly tell you that I remember
14 specifically him having a seizure, or me being called
15 out. He could have, but I don't know if it was one
16 the others.

17 Q. And there is no way for you to know for
18 certain whether he had a seizure or not?

19 A. No.

20 Q. Was that no?

21 A. No.

22 MS. FOX-YOUNG: Thank you, Your Honor.

23 Just a moment.

24 THE COURT: Certainly.

25 MS. FOX-YOUNG: Your Honor, I'll pass the

1 witness.

2 THE COURT: Thank you, Ms. Fox-Young.

3 Let me ask the defendants if anybody has
4 any cross-examination of Mr. Martinez?

5 All right. Mr. Beck?

6 EXAMINATION

7 BY MR. BECK:

8 Q. Good afternoon, Mr. Martinez.

9 In the time that you saw Mr. Perez from
10 2015 to 2016, did you have conversations with Mr.
11 Perez when you'd see him?

12 A. Yes.

13 Q. Did these conversations include a
14 diagnostic of how he's feeling?

15 A. It was the conversations in terms of his
16 the chief complaint, and my addressing that chief
17 complaint in whatever manner at the time.

18 Q. Did you have those conversations about his
19 complaints each time you saw him?

20 A. Yes.

21 Q. Did you converse with him about anything
22 else during this time?

23 A. Other than addressing his complaint and how
24 I was going to address it, either order something,
25 fill his medications.

1 Q. And he was able to intelligently
2 communicate with you about his complaints?

3 A. Yes.

4 Q. He was able to answer the questions you
5 had?

6 A. Yes.

7 MR. BECK: Pass the witness, Your Honor.

8 THE COURT: All right. Thank you, Mr.
9 Beck.

10 Ms. Fox-Young, any redirect of Mr.
11 Martinez?

12 MS. FOX-YOUNG: No, Your Honor. He may be
13 excused.

14 THE COURT: All right. Mr. Martinez, you
15 may step down. Ms. Fox-Young says he can be excused.
16 Mr. Beck, can he be excused?

17 MR. BECK: Yes, Your Honor, he may.

18 THE COURT: Anybody else?

19 Did you have anything, Mr. Samore? No?

20 All right. You are excused from the
21 proceedings. Thank you for your testimony.

22 All right. Are we ready to bring Mr.
23 Cordova back in? And Mr. Samore, if you want to come
24 back up.

25 Ms. Jacks.

1 All right. Mr. Cordova, I'll remind you
2 that you're still under oath.

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: All right. Ms. Jacks, if you
5 wish to continue your examination of Mr. Cordova, you
6 may do so.

7 MS. JACKS: Thank you.

8 THE COURT: Ms. Jacks.

9 EXAMINATION (Continued)

10 BY MS. JACKS:

11 Q. Mr. Cordova, before the break I was asking
12 you some questions about your plan to make these
13 surreptitious recordings. Do you recall those
14 questions?

15 A. Yes, ma'am.

16 Q. Was this your first time acting like an
17 undercover informant, making recordings, or had you
18 done that before?

19 A. I haven't done that before, Miss.

20 Q. I want to pick back up on our discussion
21 about Suboxone. And when you made the recordings of
22 Mr. Perez and Mr. Herrera, you were at PNM Level 6,
23 right?

24 A. No, Herrera I was at Level 4. Perez, I was
25 at Level 6.

1 Q. When you made the recordings of Mr. Perez,
2 you were at PNM Level 6; correct?

3 A. Yes, ma'am.

4 Q. And you had gotten Suboxone smuggled in to
5 you before at PNM Level 6, haven't you?

6 A. Yes, ma'am.

7 Q. And, in fact, your mother was detained for
8 smuggling Suboxone into PNM Level 6, wasn't she?

9 A. Yes, ma'am.

10 Q. What year was that?

11 A. I don't know if it was Suboxone. But she
12 was caught from my little brother. That was in 2012,
13 '11, 2011, January.

14 Q. I want to ask you some questions about the
15 Exhibit CH-C. And it's a transcript of a
16 conversation between you, Dale Chavez, and Carlos
17 Herrera. You answered some questions about this when
18 the prosecution asked you about it. Do you remember
19 that?

20 A. Yes, ma'am.

21 Q. And, specifically, I'm going to direct you
22 to what's been marked as page 20999. Back up a
23 little bit, and just give you a chance to read it.
24 But you'd agree with me that what's reflected on this
25 page is a discussion about Suboxone, right?

1 A. Yes, ma'am.

2 Q. And what are you talking about with
3 Mr. Chavez in this?

4 A. Comparing prices to Suboxone on the
5 streets.

6 Q. On the streets versus in prison?

7 A. No.

8 Q. Just on the streets?

9 A. On the streets.

10 Q. And I think when Mr. Castellano asked you
11 some questions about this, you said that -- and I
12 want to try to quote you -- that you were talking
13 about Suboxone strips with Mr. Chavez because, quote,
14 "I didn't know what Bryan was going to have me do
15 next." Do you recall that testimony?

16 A. Yes, ma'am.

17 Q. And who is Bryan?

18 A. Bryan Acee.

19 Q. So Agent Acee is who you were referring to?

20 A. Yes, ma'am.

21 Q. And you said you didn't know what Bryan was
22 going to have you do next?

23 A. Yes, ma'am.

24 Q. Can you flesh that out for me a little bit.
25 What was going through your mind?

1 A. I didn't know what was going on, you know
2 what I mean? He told me: Do what you can, and get
3 as much murders as you can and do what you can. So I
4 went in there, and I was doing what I do.

5 Q. Did he tell you or did he make you think at
6 some point that, if you got as much information on
7 murders for him, that somehow you could get out to
8 the streets and be working undercover on drug deals
9 in the streets?

10 A. No, ma'am.

11 Q. That wasn't in your mind?

12 A. No, ma'am.

13 Q. What did you think it was that -- well,
14 you're talking about Suboxone prices on the street
15 here, right?

16 A. Yes, ma'am.

17 Q. And so what did you think Bryan was going
18 to have you do next with respect to Suboxone on the
19 streets?

20 A. I was just doing what I do in prison with
21 the SNMers, and talk about drugs and prices, and get
22 things going. And if it was possible, I would have
23 let Bryan know what was going on. And if he felt it
24 was serious enough, he would act on it. If not, then
25 throw it to crazy.

1 Q. Did Bryan -- and by Bryan I'm meaning Agent
2 Acee -- ever talk to you about, after your
3 cooperation was done in this case, possibly moving
4 you to some other state where you could perform
5 undercover services for the FBI out on the streets?

6 A. No, ma'am.

7 Q. After you made the recordings that you
8 testified about today, I think you said that you were
9 appointed a lawyer; is that right?

10 A. Yes, ma'am.

11 Q. And when was that?

12 A. Around May.

13 Q. May of 2016?

14 A. Yes, ma'am.

15 Q. And was it also in May of 2016 -- or let me
16 go back. When were you moved after you made the
17 recordings of Mr. Herrera?

18 A. Around April or May.

19 Q. Of 2016?

20 A. Yes, ma'am.

21 Q. And were you moved to another facility or
22 another unit or where were you moved?

23 A. Another facility.

24 Q. And where was that?

25 A. MDC.

1 Q. In Albuquerque?

2 A. Yes, ma'am.

3 Q. And at some point were you moved back to
4 Level 6 in a pod called L pod?

5 A. Yes, ma'am.

6 Q. When did that happen?

7 A. Around May.

8 Q. So shortly after you got your lawyer?

9 A. Yes, ma'am.

10 Q. You went from MDC in Albuquerque back to
11 Level 6 in L pod?

12 A. Yes, ma'am.

13 Q. Now, once you were placed in L pod, were
14 your conditions of confinement Level 6 confinement
15 conditions?

16 MR. CASTELLANO: Objection, relevance.

17 THE COURT: What's the relevance of that?

18 MS. JACKS: Well, this is cross-examination
19 on something that was brought out, I believe -- let
20 me see if it was in direct. And the relevance goes
21 to bias or other motives with respect to benefits.

22 MR. CASTELLANO: This would be after the
23 recordings, though, so we're talking about a
24 different bias for a different hearing.

25 MS. JACKS: Well, it goes to his honesty

1 and credibility in this hearing.

2 THE COURT: It's a little hard for me to
3 slice it that close. So I'll overrule the objection.

4 Q. So the question, Mr. Cordova -- I think the
5 Judge says you can answer it -- is, were the
6 conditions of confinement in L pod, Level 6
7 conditions of confinement?

8 A. It was controlled movement, where we get
9 tier time.

10 Q. Okay. So "controlled movement" meaning
11 that when you went out of the pod, you had to be
12 escorted by correctional officers?

13 A. Yes, ma'am.

14 Q. But you weren't locked in your cell 23
15 hours a day?

16 A. No, ma'am.

17 Q. In fact, you were able to spend most of the
18 day hanging out on the tier in the unit?

19 A. Yes, ma'am.

20 Q. And can you tell me who else was in L pod
21 when you were there?

22 A. Munoz, Frederico Munoz; Robert Martinez;
23 Gerald Archuleta; Benjamin Clark; I believe Timothy
24 Martinez; Roy Martinez, I think. And that's it from
25 my recollection.

1 Q. Were you moved out of L pod at some point?

2 A. Yes, ma'am.

3 Q. When did that happen?

4 A. In January.

5 Q. Of 2017?

6 A. I believe so.

7 Q. Now, with respect to getting the tier time,
8 did you also get other benefits such as contact
9 visits with your familiar?

10 A. Yes, ma'am.

11 Q. What other sort of benefits did you get
12 besides those two things?

13 A. Basically, that was it.

14 Q. And was anybody housed in L pod that was
15 not a government cooperator while you were there?

16 A. To my recollection, no.

17 Q. So everybody there had something to do with
18 being a government witness in this case?

19 A. I believe so.

20 Q. And while you were in L pod, did you --
21 were you able to see any of the discovery in this
22 case?

23 A. No, ma'am.

24 Q. Did any of the people housed with you have
25 computer tablets?

1 A. I didn't have one.

2 Q. That's not my question.

3 A. I don't know if they had one.

4 Q. You never saw one?

5 A. No, ma'am.

6 Q. Nobody ever showed you one?

7 A. No, ma'am.

8 Q. You have no idea what's on any of the
9 tablets?

10 A. No, ma'am.

11 Q. Do you know whether people who were
12 defendants and became cooperators in this case were
13 issued computer tablets that they brought with them
14 to L pod?

15 A. I don't know, ma'am. I don't know anything
16 about that.

17 Q. Was it ever explained to you why you were
18 in a Level 6 prison, but getting privileges that were
19 more appropriate for Level 4 inmates?

20 A. Pretty much, that whole prison was opened
21 up. Everybody was pretty much getting tier time
22 then.

23 Q. I understand that. Everybody in L pod,
24 right?

25 A. No, the whole prison.

1 Q. Everybody in the whole Level 6 of PNM?

2 A. Except the 3s. The 2s and the 1s, they all
3 get tier time. They got the Drug Suppression Unit.
4 You have the Gang Unit, which is in H pod. You
5 have -- and all of them get tier time.

6 Q. Do you think that the fact that you were
7 transferred to a pod with a bunch of other Government
8 witnesses and given contact family visits and tier
9 time had anything to do with you agreeing be a
10 government witness or making recordings?

11 A. I think me walking away from the SNM was
12 enough for the administration to trust me and allow
13 me to have my privileges, like a regular RPP inmate
14 would have. That's what I believe.

15 Q. So you don't think it had anything to do
16 with the fact that you wore a wire or were agreeing
17 to testify as a government witness?

18 A. I don't think so.

19 Q. Now, in addition to getting the privileges
20 and the family visits, you also got money, didn't
21 you?

22 A. Yes, ma'am.

23 Q. And who gave you the money?

24 A. The money just got put on my books. It was
25 \$50 a month. I'm pretty sure it was Bryan.

1 Q. Bryan Acee, the agent?

2 A. Yes, ma'am.

3 Q. And did Agent Acee ever explain to you why
4 he was going to start giving you money?

5 A. Just living expenses, if I needed
6 something. I need to call my family, put money on
7 the phone to call my family. You know, get me
8 hygiene, if I need hygiene, stuff like that.

9 Q. So let's be clear. Before January of 2016,
10 was Agent Acee or any other member of law enforcement
11 putting money on your books every month?

12 A. Before January '16?

13 Q. Before January of 2016.

14 A. Before?

15 Q. Yeah.

16 A. No, ma'am.

17 Q. And after you made the recordings, Agent
18 Acee started putting money on your books every month;
19 is that right?

20 A. Yes, ma'am.

21 Q. Did your wife also receive money from law
22 enforcement?

23 A. Not that I know of.

24 Q. Did you ask for your money to be given to
25 your wife for any reason?

1 A. No, ma'am.

2 Q. Do you have -- or living with you and your
3 wife, do you have three young daughters?

4 A. Yes, ma'am.

5 Q. What are their ages?

6 A. Teenage ages, 13, 12, 11.

7 Q. And did you ever ask Agent Acee to give
8 money to your wife because your kids needed something
9 for school?

10 A. No, ma'am.

11 Q. Now, while you were -- I'm going to go back
12 to L pod. I realize I forgot to ask you some
13 questions.

14 While you were in L pod, you were able to
15 talk freely with other people that were in L pod,
16 right?

17 A. Yes, ma'am.

18 Q. And you were housed with them 24 hours a
19 day, seven days a week, right?

20 A. Yes, ma'am.

21 Q. Did you ever discuss your testimony or your
22 expected testimony in this case?

23 A. No, ma'am.

24 Q. Did you ever discuss the Javier Molina
25 homicide?

1 A. No, ma'am.

2 Q. Did you ever discuss what sort of benefits
3 these other informants were getting for being
4 government witnesses?

5 A. No, ma'am.

6 Q. Not at all?

7 A. No, ma'am.

8 Q. It never came up?

9 A. No, ma'am.

10 Q. Did you ever find out that other people
11 were making more money than you, from Agent Acee
12 putting money on their books?

13 A. No, ma'am.

14 Q. Did you ever find out that other informants
15 got a -- do you know what a lump sum is?

16 A. What is that, Miss?

17 Q. I'm asking you do you know what it is?

18 A. What are you --

19 Q. Well, is there a process in the New Mexico
20 Department of Corrections, where the Department of
21 Corrections can just cut time off your sentence by
22 giving you a lump sum of credits?

23 A. Oh, I don't know.

24 Q. Did you ever discuss with any of the other
25 people housed in L pod whether any of them received

1 lump sum payments or lump sum credits against their
2 sentence because of their position as government
3 witnesses?

4 A. No, ma'am.

5 Q. Was Eric Duran in L unit at all while you
6 were there, or L pod?

7 A. Yes, ma'am.

8 Q. And did Mr. Duran get released to the
9 streets while you were in L pod?

10 A. I know he left. I don't know where to.

11 Q. Did Mr. Duran ever talk with you about the
12 fact that he got a lump sum credit so that he could
13 get released from custody?

14 A. No, ma'am.

15 Q. Did he ever tell you he got payments in the
16 area of \$25,000 from Agent Acee?

17 A. No, ma'am.

18 Q. Now, are you still receiving the \$50 a
19 month from Agent Acee?

20 A. No, ma'am.

21 Q. When did those payments stop?

22 A. January '17.

23 Q. This year. And did something -- well, was
24 something discovered in January of this year that
25 caused the payments to stop?

1 A. I believe so.

2 Q. Well, you believe, or you know?

3 A. I know so.

4 Q. I mean, I think when you referenced this,
5 when Mr. Villa was asking you questions, you said
6 that you were -- the payments were cut off. Do you
7 recall that testimony?

8 A. I didn't say the payments were cut off. I
9 said I was cut off communicating with him.

10 Q. You were cut off communicating with Acee?

11 A. Yes.

12 Q. And did that happen at the same time the
13 payments were cut off?

14 A. Yes, ma'am.

15 Q. And I think what you told Mr. Villa is you
16 were cut off because of what happened to you?

17 A. Yes, ma'am.

18 Q. Well, the truth is, it's not what happened
19 to you, right, it's what you did?

20 A. Yes, ma'am.

21 Q. And what did you do, or what did you do
22 that was discovered in January of 2017, that caused
23 you to be cut off from Agent Acee and the payments?

24 A. I was caught having inappropriate relations
25 with my wife in a visiting room.

1 Q. When you say "inappropriate relations," you
2 had sex with your wife in the visiting room, didn't
3 you?

4 A. Yes.

5 Q. And you did it on more than one occasion?

6 A. Yes, ma'am.

7 Q. How many times did you do it?

8 A. I can't recall.

9 Q. Well, was it more than two times?

10 A. About two times, a couple of times.

11 Q. And while you were -- we're talking sexual
12 intercourse; correct?

13 A. Yes, ma'am.

14 Q. And while you were engaging in sexual
15 intercourse with your wife, were any of your
16 daughters present in the visiting room?

17 A. Yes, ma'am.

18 Q. Which ones?

19 A. My two girls.

20 Q. The two, the 11- and 12-year-old?

21 A. Yes, ma'am.

22 Q. And on one occasion the 13-year-old was
23 present, wasn't she?

24 A. Yes, ma'am.

25 Q. And at the time that you were engaged in

1 sexual intercourse with your wife, how --

2 A. I got two girls. I don't have three girls.
3 I got two girls.

4 Q. Okay. You have two and your wife has a
5 daughter from another relationship?

6 A. No, ma'am.

7 Q. Who is the 13-year-old -- not her name, but
8 what is her relation to you?

9 A. We don't have that.

10 Q. Was it always the same two --

11 A. Yes, ma'am.

12 Q. -- children present every time you had
13 sexual intercourse with your wife?

14 A. Yes, ma'am.

15 Q. And at the time that you were engaging in
16 intercourse with your wife, how far were your two
17 daughters from you and your wife in this visiting
18 room?

19 A. On the other side of the table, playing a
20 game.

21 Q. Were they closer to you than the courtroom
22 deputy here sitting right in front of you in the pink
23 and white shirt?

24 A. About that far.

25 Q. And can you explain to me how it was that

1 you and your wife engaged in sexual intercourse in
2 front of your daughters?

3 A. I seen a weakness the system, and I
4 exploited it. That's all it was.

5 Q. Okay. I appreciate that. You get away
6 with what you can get away with, right?

7 A. Well, it's not what I can get away with.
8 It wasn't like that at the time. It's my wife, you
9 know what I'm saying? Those are my children. If you
10 and your husband -- I'm assuming, do you have a
11 husband -- you have relations, right?

12 Q. I'm not going to have sexual relations in
13 front of a 13-year-old, 11-, 12-year-old children.

14 But my question, Mr. Cordova, was how did
15 you --

16 A. It wasn't my kids where they can see me.

17 Q. Can you explain to us in this courtroom how
18 was it that you and your wife engaged in sexual
19 intercourse in front of 11 and 12-year-old girls?

20 A. I covered her up. And it was mostly
21 touching, more than anything. They were on the other
22 side playing a game. I made sure they were
23 distracted. And that's how it went down.

24 Q. Did your penis enter your wife's vagina
25 during those -- I mean, that's what sexual

1 intercourse is, right?

2 A. Yeah.

3 Q. So we're on the same wavelength, right?

4 A. Yes, ma'am.

5 Q. So now you're saying is mostly touching,
6 but it was more than touching, right?

7 A. It was, on one occasion, yes.

8 Q. So how did you and she have contact in this
9 visiting room?

10 A. We were in contact visits.

11 Q. She sat on your lap, right?

12 A. Yes, ma'am.

13 Q. And she bounced up and down while your two
14 little girls were playing Monopoly?

15 A. Yes, ma'am.

16 MS. JACKS: I have nothing further.

17 THE COURT: Thank you, Ms. Jacks.

18 Anyone else on the defense side that has
19 questions?

20 Ms. Duncan?

21 MS. DUNCAN: Yes, Your Honor. May I have a
22 moment, Your Honor?

23 THE COURT: Certainly.

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EXAMINATION

BY MS. DUNCAN:

Q. You discussed with Ms. Jacks the benefits that you received at Level 6, correct, after cooperating?

A. Yes, ma'am.

Q. In addition to those that you mentioned when you were talking with Ms. Jacks, you also received unlimited phone calls; correct?

A. Just the regular phone calls an RPP inmate would get.

Q. And they were paid for by someone other than you?

A. By me, but the money was put on my books, yeah.

Q. By someone other than you?

A. Yes, ma'am.

Q. You were also allowed to have shoes from the street brought in by your family?

A. I remember that, yes.

Q. You said that Eric Duran was with you at Level 6; correct?

A. Yes, ma'am.

Q. Are you aware that Eric Duran tried to record you using a wire?

1 MR. CASTELLANO: Objection, relevance.

2 THE COURT: What is the relevance of this?

3 MS. DUNCAN: Your Honor, if he's aware of
4 it, I think that he learned things from Mr. Duran.
5 So Mr. Duran recorded this witness before this
6 witness recorded Mr. Perez or Mr. Herrera. So I'd
7 ask him if he knew that, and what he learned from
8 Mr. Duran, based on how to use the recorders and to
9 get information.

10 THE COURT: I guess I'm not following how
11 that helps us on this motion to suppress. I'll
12 sustain.

13 MS. DUNCAN: Well, Your Honor, if I could
14 just -- I think the way that it's relevant is that
15 Mr. Duran was trying to get information from Mr.
16 Cordova, using certain techniques. And so what I'd
17 like to explore is --

18 THE COURT: How does that help me determine
19 whether Mr. Perez and Mr. Herrera gave voluntary
20 statements?

21 MS. DUNCAN: Because it goes to the
22 techniques that Mr. Cordova used to get Mr. Perez and
23 Mr. Herrera to make statements.

24 THE COURT: Sustained. This is getting far
25 afield.

1 BY MS. DUNCAN:

2 Q. Who did you discuss the Molina case with or
3 the Molina murder with before you spoke to Rudy Perez
4 about the case?

5 A. Can you say that again, Miss?

6 Q. Sure. So you recorded Mr. Perez or talked
7 to Mr. Perez about the Molina murder in February of
8 2016; correct?

9 A. Yes, ma'am.

10 Q. Before that date, who had you discussed
11 that murder with?

12 A. Who I had discussed that murder with?

13 Q. Yes.

14 A. Everyone would talk about it in the yard.

15 Q. So can you give me -- who is everyone?

16 A. All the other Sindicatos that were there,
17 "Spider," "Blue," "Red," Creeper," basically all the
18 ones that were involved in it.

19 Q. Other than "Spider," "Blue," "Red" and
20 "Creeper," did you discuss the murder with anyone
21 else?

22 A. "Red."

23 Q. Did you discuss it with your wife?

24 A. No, ma'am.

25 Q. Did you discuss it with STIU?

1 A. No, ma'am.

2 Q. Before speaking with Mr. Acee in February
3 or January of 2016, had you discussed it with any
4 other law enforcement officer?

5 A. No, ma'am. Before Bryan Acee, I never
6 worked with any other law enforcement. Never talked
7 to STIU. I never made a statement on nobody, none of
8 that.

9 Q. You mentioned that it was STIU Officer
10 Gerardo who introduced you to Mr. Acee; is that
11 correct?

12 A. Yes, ma'am.

13 Q. Had you spoken with him before he
14 introduced you to Mr. Acee?

15 A. Never.

16 Q. Was that the first time you had met
17 Mr. Gerardo?

18 A. I know who he is. I just never spoke to
19 him.

20 Q. In January 2016, when you were in MDC and
21 spoke with Mr. Acee, were there any other SNM members
22 in the pod with you?

23 A. Where at?

24 Q. MDC, in January of 2016.

25 A. Yes, ma'am. It was Salamon, "Silent" from

1 Los Lunas or Belen. That was basically it, that I
2 can recall.

3 Q. And what is "Silent's" real name?

4 A. Honestly, I can't tell you.

5 Q. What about Salamon?

6 A. Can't tell you either.

7 Q. Did you discuss with "Silent" or Salamon
8 the arrest of other SNM members in December of 2015?

9 A. We discussed that all the time, Miss.

10 Q. And what did you discuss?

11 A. Just what happened with the RICO Act, and
12 all that.

13 Q. Did you discuss concerns about the three of
14 you being charged?

15 A. No, ma'am.

16 Q. Did either Salamon or "Silent" tell you
17 that they were cooperating with law enforcement?

18 A. I didn't know that at that time.

19 Q. And when did you know that?

20 A. Later on, down the line, when things
21 started; people talk, people say things.

22 Q. So when you say "down the line," when would
23 that be?

24 A. About a year later.

25 Q. And in what context?

1 A. I was at X pod. I was in the hole for what
2 I got in trouble for doing in the visiting room. I
3 was there for six months with other individuals,
4 other gang members, like Burquenos, and they would
5 talk about it. And they would say: This is what we
6 hear. But that's it.

7 Q. Did you talk to any other SNM members,
8 former members or affiliates, about cooperating with
9 the government?

10 A. No, ma'am.

11 Q. At no time --

12 A. No, ma'am.

13 Q. -- did you ever discuss that?
14 When do you get out of prison?

15 A. In about 20 months.

16 Q. Twenty months from today?

17 A. Yes, ma'am.

18 Q. And when did you go to the RPP Program?

19 A. I went to the RPP Program in July of this
20 year.

21 Q. I think you testified that you left PNM
22 North in January of this year; is that correct?

23 A. No, I left L pod and went to X pod in
24 January of this year.

25 Q. And did you remain in X pod until you went

1 to the RPP Program in July?

2 A. Yes, ma'am.

3 Q. And how is it that you went to the RPP
4 Program in July?

5 A. Because Level 6, they don't have Interim
6 Level 6 no more, so if you have 30-day seg, that
7 what's the most I was supposed to do in seg. But I
8 ended up doing six months because of the wait, the
9 hold, the bedding, it's real packed down there.
10 Because I was waiting for RPP in the first place. I
11 was already waiting to go down there.

12 Q. So you were on a wait list --

13 A. Yes, I was ready to consider RPP. And I
14 was waiting to go to RPP.

15 Q. So for how long had you been on the RPP
16 wait list?

17 A. For about a year.

18 Q. Now, I understand that you recorded Rudy
19 Perez and Carlos Herrera; correct?

20 A. Yes, ma'am.

21 Q. And you tried to record Jesse Sosa?

22 A. Yes, ma'am.

23 Q. Are there any other individuals who you
24 tried to record?

25 A. No, ma'am.

1 Q. Any other individuals --

2 A. Yes, ma'am. There was Alex Munoz. Sorry
3 about that.

4 Q. Did you make any recordings of Alex Munoz?

5 A. Yes, ma'am, but I don't think -- I don't
6 know what was said, or what, but, yeah, I made some
7 recordings with him.

8 Q. Other than those four men, did you make or
9 attempt to make any recordings?

10 A. No, ma'am.

11 MS. DUNCAN: If I could have a minute, Your
12 Honor?

13 THE COURT: You may.

14 MS. DUNCAN: No further questions, Your
15 Honor.

16 THE COURT: Thank you, Ms. Duncan.

17 Anyone else on the defense side that has
18 cross-examination of Mr. Cordova?

19 All right. Mr. Castellano, do you have
20 redirect of Mr. Cordova?

21 MR. CASTELLANO: Thank you.

22 THE COURT: Mr. Castellano.

23 REDIRECT EXAMINATION

24 BY MR. CASTELLANO:

25 Q. Mr. Cordova, you were asked about coming in

1 yesterday and meeting with your attorney. Do you
2 remember that?

3 A. Yes, ma'am -- I mean, yes, sir. My bad.

4 Q. Do you remember who else was present when
5 you met with your attorney yesterday?

6 A. The US District Attorney and at court
7 briefly. And that was it. Just seen them like
8 passing by. That was it. When they said: Hi, you
9 got court. Spoke with my lawyer.

10 Q. Do you remember meeting with me last night?

11 A. Yes, sir.

12 Q. And did I tell you generally what would be
13 asked of you today?

14 A. To say the truth.

15 Q. Now, when you got to go to rec time, when
16 you were housed with Mr. Perez --

17 A. Yes, sir.

18 Q. -- you mentioned that he sometimes didn't
19 go to rec time; is that correct?

20 A. Yes, sir.

21 Q. And were there, at that time, multiple
22 people who would go to rec time in the cages?

23 A. Yes, sir.

24 Q. Now, at that time, do you recall Mr. Perez
25 telling you that he was under investigation?

1 A. Yes, sir.

2 Q. Now, in terms of the SNM, do you remember
3 the SNM getting locked down after the Molina murder?

4 A. Yes, sir.

5 Q. And what about the Julian Romero assault?

6 A. That's why we were still under
7 investigation, because we had just came out of
8 lockdown. And they had moved on Julian Romero. And
9 SNM is known for killing their own people a lot. So
10 they didn't know who was next. So we were under
11 investigation lockdown.

12 Q. And so do you recall if that was July of
13 2015, or approximately when that was?

14 A. Yeah, it was in 2015.

15 THE COURT: Mr. Castellano, are you trying
16 to finish this witness up tonight?

17 MR. CASTELLANO: I am, Your Honor. I've
18 got a few more questions.

19 THE COURT: Okay. Go ahead. Let's see if
20 we can finish him up.

21 Q. Now, you mentioned earlier that you had
22 interacted with Rudy Perez before. Do you remember
23 that?

24 A. Yes, sir.

25 Q. Now, the times you interacted with him, did

1 you ever have any problem understanding him?

2 A. No.

3 Q. Did he ever appear to have any problem
4 understanding you?

5 A. No.

6 Q. You mentioned that he was in pain and he
7 took painkillers. Did you ever notice that affecting
8 your ability to communicate with each other?

9 A. No, sir.

10 Q. What about when you recorded him?

11 A. No, sir.

12 Q. Earlier, you talked about turning on and
13 off the recorder when you were recording Mr. Herrera
14 and Mr. Perez. Do you ever remember them saying they
15 weren't involved in the Molina murder?

16 A. No, sir.

17 Q. Was that even when the recorder was off?

18 A. Yes, sir.

19 MR. CASTELLANO: Pass the witness, Your
20 Honor.

21 THE COURT: All right. Thank you,
22 Mr. Castellano.

23 All right. Any reason Mr. Cordova cannot
24 be excused from the proceedings?

25 MR. VILLA: No, Your Honor.

1 THE COURT: All right. Everybody in
2 agreement with that? Mr. Castellano?

3 MR. CASTELLANO: Yes, Your Honor.

4 THE COURT: All right. Anybody else?
5 Defendants? All right. Not hearing any, Mr.
6 Cordova, you're excused from the proceedings. Thank
7 you for your testimony.

8 THE WITNESS: All right, Your Honor. Thank
9 you.

10 THE COURT: All right. Let's shut her down
11 for tonight. We'll see y'all tomorrow. Everybody be
12 safe. And I appreciate everybody's hard work.

13 (The Court stood in recess.)
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C-E-R-T-I-F-I-C-A-T-E

UNITED STATES OF AMERICA

DISTRICT OF NEW MEXICO

I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
Official Court Reporter for the State of New Mexico,
do hereby certify that the foregoing pages constitute
a true transcript of proceedings had before the said
Court, held in the District of New Mexico, in the
matter therein stated.

In testimony whereof, I have hereunto set my
hand on December 19, 2017.



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